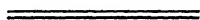




BURMA ROUND TABLE CONFERENCE

27th November, 1931—12th January, 1932



PROCEEDINGS

OF THE

Committee of the Whole Conference



Rangoon
Supdt., Govt. Printing and Stationery, Burma
1932

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INTRODUCTORY NOTE.

Proceedings of the Burma Round Table Conference in Plenary Session are contained in Cmd. 4004 of 1932, to which this volume is supplementary.

The Introductory Note to the Command Paper explains, briefly, the procedure adopted by the Conference.

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NOTE.

The following Heads for discussion were placed before the Committee by the Chairman:—

1. Question of a Second Chamber.
2. Method of Election to the Second Chamber and Qualifications of Electors and Candidates.
3. Constitution of the Lower House.
4. The Franchise for the Lower House.
5. Relations between the two Houses.
6. Excluded Areas.
7. Defence.
8. The Services.
9. The High Court.
10. Finance.
11. The Ministers.
12. The Governor.

It will be noted that—

(a) The above Heads were not discussed by the Committee strictly in accordance with the numerical order shown.

(b) Heads 1 and 2 were considered together.

(c) In addition to the full discussion on Heads 1 and 2 during the 1st and 2nd Meetings of the Committee, a further discussion on the "Method of Election to the Second Chamber" took place during the 12th Meeting.

(d) The question of the "Representation of Minorities in the Lower House" (a sub-head under Head 3), after a full discussion in Committee which yielded no measure of agreement, was taken up by an informal sub-Committee formed privately from amongst the Delegates. This informal sub-Committee also failed to arrive at any agreement.

(e) The question of "Burman citizenship" was only briefly alluded to during the discussion on Head 4, and was discussed separately and fully during the 12th Meeting of the Committee.

(f) The question of the "Names of the two Houses" was not discussed under Head 5, but the views of the Members on this point were taken separately during the 12th Meeting.

(g) The question of the "Position of the Federated Shan States" was not discussed under Head 6 (Excluded Areas), but was taken up separately during the 1st Meeting of the Committee.

Detailed points of discussion in connection with each Head were drafted by the Chairman. They are printed in this volume at the commencement of the proceedings under their respective Heads.

Class No... 342-54

[illegible]

COMMITTEE OF THE WHOLE CONFERENCE.

COMPOSITION.

THE EARL PEEL (*Chairman*).
SIR SAMUEL HOARE.
THE MARQUESS OF LOTHIAN.
MR. ISAAC FOOT.
MR. G. H. HALL.
THE VISCOUNT MERSEY.
MAJOR D. GRAHAM POLE.
MR. J. S. WARDLAW-MILNE.
THE EARL WINTERTON.
THE SAWBWA OF HSIPAW.
THE SAWBWA OF YAUNGHWÉ.
SRA SHWE BA.
MR. C. H. CAMPAGNAC.
MR. N. M. COWASJEE.
MR. M. M. OHN GHINE.
SIR OSCAR DE GLANVILLE.
U TUN AUNG GYAW.
U MAUNG GYEE.
MR. S. N. HAJI.
MR. K. B. HARPER.
U CHIT HLAING.
MR. R. B. HOWISON.
DR. THEIN MAUNG.
U THARRAWADDY MAUNG MAUNG.
MR. SYDNEY LOO-NEE.
U NI.
MISS MAY OUNG.
U BA PE.
THARRAWADDY U PU.
MR. HOE KIM SEING.
U BA SI.
U SU.
U AUNG THIN.

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**Proceedings of the First Meeting of the Committee of the Whole
Conference, held on Monday, the 7th December, 1931,
at 11-15 a.m.**

THE SHAN STATES.

Chairman: We had on our Agenda for the commencement of our proceedings, a discussion on the scheme of the Constitution, beginning with the Second Chamber, and going on to the other branches of the Legislature and so on. But it was represented to me as the wish of some Delegates—and it seemed to me a very reasonable wish—that as a preliminary question we might discuss whether or not the Shan States should be included in the general Constitution for Burma. It is quite obvious that that question would effect the numbers and so on of those who would be represented in the Legislature. It seems, therefore, a very logical order in which to take the matter, and I think it will meet with your wish if we proceed with that question.

Sawbwa of Hsipaw: My Lord, in what was of necessity a short statement, last week I conveyed broadly the political standpoint of the Federated Shan States. Today it is desirable to give a summary of the reasons that have induced us to desire to retain our status as a distinct and separate entity, apart from the suggested new Legislature of Burma.

Our first reason is an historical one. A speaker of last week, Tharrawaddy U Pu, referred to the dynasty which the Burmans believe to have extended over a period of three thousand years, but which he admitted to be disputed. So long ago as 2,200 B.C. our people were referred to in written Chinese history as the great Mung Kingdom. At least, then, for four thousand years our history, since officially recognised by the American historian Dr. Dodd, is an unbroken one throughout, which as today, we have governed according to the customary laws and traditions which are still the basis of our present constitution.

Another speaker, U Su, referred slightly to our present bourgeois system of government. From time immemorial, through the unbroken chain of the centuries, that system of government has made for the happiness of our people. In any way to change our ancient method of government in our individual States would not be for the good of our subjects, who have looked up to the Chiefs of their States as their unquestioned rulers and their wise and kindly advisers. That same speaker protested that he would not be able to remain indifferent if the welfare of the masses of the Shan States was to be sacrificed for the maintenance of our present bourgeois system. The masses of the Shan States have never been more contented and more settled than they are today, and we have certainly not had within our country the troubles that have arisen in Burma.

If any question arises as to the fitness of our system, I would refer to the remark made by the Burmese Delegate, U Ba Si, who said

that to raise any question of fitness was adding insult to injury. In our States we have no trouble in the collection of our revenues, and we have not had to resort to the use of force, as U Pu complained has been the case in his own country. In less prosperous times, and indeed only recently, the Chiefs have voluntarily remitted as much as one-third of the burden from the people's shoulders. This recent remission was granted by the Chiefs concerned in less than a month from the application of their people. Our people have certainly not had to wait over a period of years for relief.

It was said by a speaker to whom I have previously referred, U Su, that there would be no question of our joining with Burma if we were not prepared to accept the same conditions. It would be impossible for us voluntarily to do that, and we do not desire to do any act or thing that may tend to endanger or limit our authority over our people. To abolish our customary laws and to impose an utterly new code upon our people would be an insufferable hardship. Our people, unlike the Burmans, are not ready for a completely strange form of government with new laws and a fresh constitution. Where Burma is of opinion that she needs, and has gradually fitted herself for a more advanced type of government, our people prefer to lay any grievances they may have before their Chiefs, in accordance with their ancient custom. There is no doubt the Shan States will attain also to other forms of government, but any suggestion as to reforms contemplated should come from within the States and not from without. The Chiefs have never been and are not unresponsive to the wishes of their own people.

It can safely be said that the Shans would resent the interference of Burma in their domestic affairs. We have our own scheme of reforms, a scheme that has had the sympathetic consideration of His Majesty's Government, a scheme upon which a special officer has investigated in the States and has reported thereon. A Committee of six Chiefs has been elected by the Council of Chiefs to deal with that report and to submit their further views upon the Special Commissioner's Report and recommendations. The Government has regarded that report and further submission as confidential. It is impossible, therefore, for us to discuss them. It may be said, however, that there are but few points upon which we are at variance, and we foresee but little difficulty in arriving at a compromise satisfactory to ourselves and acceded to by His Majesty's Secretary of State.

Geographically we are a compact body of States on our own, apart from Burma. Racially we are distinct from our Burmese neighbours. It is our submission that a confederated Government of two entirely dissimilar races and countries would be unwise. Our position outside the new constitution that the Burmese Delegates are here to discuss will do much to clarify and simplify their own position as a unified Burma. It is our wish to remain thus, regarding Burma as an ally in the Commonwealth of Nations that constitute the British Empire. Those relationships that we may have with Burma of a mutual and common interest will no doubt be thrashed out later. In the meantime this address is briefly to advance a number of reasons for the Shan Federation to remain outside a constitution that would be unfamiliar to us and to our people, and for the Chiefs to retain the Government of their own States according to their ancient laws and customs.

In conclusion, Sir, I would say that I would be glad to take the opportunity at the end of this discussion of answering any questions or dealing with any points that may arise.

U Ni: My Lord, may I ask the Sawbwa of Hsipaw to let us know the attitude of the Chiefs more definitely. I think I have, myself, gauged the real attitude, but I want to be sure. I would like to know whether there is any desire to join a form of federation at present or in the future, because unless there is a mutual desire on our part, and on the part of the Shan Chiefs, I think it is rather difficult to pursue the discussion for that particular purpose.

Mr. Wardlaw-Milne: I would ask, if I may, at the same time, whether the Sawbwa speaks for all the Shan States in what he has said, and whether that is the general view.

Sawbwa of Hsipaw: I was not only invited by the British Government to attend this Conference, but I was unanimously elected as a member of the Committee.

The question that *U Ni* has just mentioned is dealt with in our memorandum on page 5, if you will kindly refer to that.

U Ni: Yes; that is why I asked this question, My Lord.

Chairman: Is that a satisfactory answer?

U Ni: No, no; it is just the reverse. It is on page 5, the last paragraph.

Chairman: Then I will read it out:—

“ The Shan States, however, would not object to a Federal form of Government with Burma in the future constitution of Burma if the following points are recognised and allowed: (a) that there will be no interference with the affairs of the individual States; (b) that their ancient rights, customs, religions and privileges will remain unaltered unless and until modified by mutual consent; (c) that it will be more or less on the same lines as proposed in India between Indian States and British Government; and (d) that the hereditary rights of the Chiefs shall be acknowledged and safeguarded by British India.”

U Ni: I understand, My Lord, that the speech made by the Sawbwa of Hsipaw is just the contrary to this paragraph. I take it from the statement just made by the Sawbwa that the Shan States have no desire to treat directly with us. That is what I understand; I want to know whether I am correct.

Sawbwa of Hsipaw: I have already mentioned in my speech that we have our own schemes of reform. Those are in the hands of the Government at present, which Government consider to be confidential, and I cannot discuss the matter. Of course we must have some kind of relationship between Burma and the Shan States, in regard to experience and, as a matter of fact, in all Central Departments which the Government of India may transfer to Burma. We should have a share of the transferred subjects and we should also bear our own liabilities.

Chairman: I think we must assume, must we not, that if this conference decides that the Shan States should not send representatives to the Legislature of Burma, and in that sense come within that Constitution, there will be relations between them and the Government of Burma which will have to be settled. Perhaps now we could keep

on the principle of whether they should, or should not, come in. There are obviously a large number of details which will be settled later.

Mr. Isaac Foot: I suppose all the members of the Conference representing Burma have acquainted themselves with the memoranda which have been circulated and will have formed their opinion upon the requests that are contained therein. Could we know what is their reaction to those suggestions?

Chairman: I gather from the absence of any desire for discussion that there is on the whole an agreement—shall I call it provisional?—among the members of the Conference that the Shan States in principle shall be excluded from the general Burma Constitution.

Mr. Wardlaw-Milne: That probably is the case on the original statement made this morning, but since then the Sawbwa of Hsipaw has made a rather remarkable statement, from which I understand that, although they desire to retain their present position and have no connection with any new constitutional Government that may be set up for Burma proper, at the same time, if subjects under a constitutional Government for Burma are transferred, they would expect to have the same for the Shan States. The Sawbwa can hardly, if I may say so with respect, have the best of both worlds. He must either not come into the Constitution, or he must join in one form or another.

Sawbwa of Hsipaw: There will have to be some relation between the two countries. At present, Burma does not take part of the customs; India takes the whole, and if Burma is separated from India that part would be returned to Burma, and we in the Shan States, who are paying duties, want this to be considered.

Mr. Wardlaw-Milne: It is a case of financial and trade adjustment. That is all right.

Sawbwa of Hsipaw: In our internal affairs we want our own independence. There is also the question of the railways.

Chairman: The question of customs is one we are not unfamiliar with in other connections. All these questions—customs, the relations with the railways, and a number of other things—will have to be dealt with at some stage. But what I want to know is whether it is the view of the Conference that the Shan States should not take their part in the constitutional structure of Burma. I gather from the sympathetic acquiescence of the Conference that they do generally support that view.

U Mqung Gye: I believe all the Burmese Delegates are in general sympathy with the desire of the Shan States to be masters of their own home and to have full control over their own internal administration. But there are, as admitted by the Sawbwa of Hsipaw, questions of mutual and common interest. One question of vast importance will be the defence of the North-Eastern Frontier. The Shan States lie between Burma, China, Siam, and French Cochin China, and we must be quite sure that our North-Eastern Frontier is protected against foreign invasion. Therefore, we cannot be indifferent to the defence of the Shan States. There are also questions as to how the receipts from customs and from communications are to be apportioned between the Shan States and Burma, and how the general relations between the two are to be regulated. In the olden days the

Shan States recognised the suzerainty of Burma. Although the Shan States had the full right of self-government in their internal affairs, in external affairs they had to recognise Burma as the paramount power, and it is a matter to be considered whether the old relationship should not be revived now, and the reconstituted Government given the same position in respect of the Shan States that the King of Burma had in the old days. As the discussion proceeds other questions of importance may also arise. I am not sure whether there is not a need for a small sub-committee, where all the questions can be thrashed out more intimately than in this full Committee.

Major Graham Pole: There seems to me to be quite a distinct difference between this last paragraph on page 5 and the speech to which we listened at the beginning of this Session. This paragraph 5 says definitely that the Shan States would not object to a federal form of government with Burma, but I understand the speech was entirely against a federal form of government.

Sawbwa of Hsipaw: I am sorry, but I did not write that memorandum.

Major Graham Pole: It is clear, I think, that this paragraph 5 does not stand as it is written.

Chairman: I do not think we can necessarily trouble with paragraph 5, can we?

Major Graham Pole: We merely want to know where we are.

Chairman: I think it is clear that although there are, no doubt, many questions of future relations between the two, for our purposes, going on to consider the constitutional problem, we can assume that the Shan States are not really included. That is really all we can arrive at for the moment.

With regard to the question of a sub-committee, I will consider that, if I may. I am not quite sure whether at the present moment such a sub-committee would be very fruitful, or whether it would be advisable to appoint it until we have got a little further on. I was hoping, if we could, to avoid sub-committees, because I have had an interesting experience on the Indian Conference in that way; I have found that the moment it is decided to have a sub-committee everybody wants to be represented on it. The sub-committee very soon grows to the size of the original committee from which it was born, so that you do not gain very much by having a sub-committee. However, I will consider your proposal. I think the questions are hardly ripe yet for discussion in that way, and will not be until we have progressed a little further with the general constitutional scheme.

I think we might now provisionally agree, therefore, that for the purposes of constructing our legislative scheme, the Shan States should not be included.

Tharrawaddy U Pu: As far as we know at present, the Shan States are not being ruled by my friends the Sawbwajis. They claim to be rulers, but they are mere puppets in the hands of the official bureaucrats there. You have Burma government officials there, above them. In fact, their position is very pitiable. Therefore, I understand the Sawbwa of Hsipaw is now claiming to have independence within the States; he wants to rule the Shans himself. When I say "he" I mean that all the Chiefs want to rule the Shans themselves; they do not want any interference in their internal administration,

either by the Government of Burma or by the servants of the Government of Burma. The Sawbwa of Hsipaw does not want any interference at all; that is what I take his speech to mean; and reading his speech with the statement made on page 5 of his memorandum, I take it that he wants to be completely independent while remaining loyal to His Majesty the King. He would remain loyal, but he would want to rule his own country without any interference. That I take it, Sir, is your first request. Am I correct?

Sawbwa of Hsipaw: Yes.

Tharrawaddy U Pu: I know you very well, Sir; that is why I am saying this. All the Chiefs say, in paragraph 5, that failing that complete independence as regards their internal administration they would have no objection to federating with the Burmese; but even if he were to join a Federation of Burma he would not like Burma to interfere in the administration of his own States. That is what I take it to mean. The Chiefs want to rule themselves, with no interference by the Burma Government, yet they would remain loyal to His Majesty the King and his successors. We ought to know, first of all, whether that form of government is going to be given to them. If that type of government is not to be given to the Shan States, then the Chiefs would have no objection to federating with Burma. In that case we must be able to discuss the Shan States simultaneously with the discussion on Burma. Therefore, My Lord, I think it would be well if this matter were made clearer by His Majesty's Government. If we are told, "Oh, yes, we will discuss this matter," then, of course, there will be no need for us to discuss this question at the present moment; but if there is no likelihood of meeting their first request, then we might discuss the Shan States as we discuss matters concerning Burma.

If you are going to give them independence within their States, then please give it to them. We Burmese, I am sure, will agree, if you will give independence to them, to let them rule their own country. We Burmese have no desire at all to interfere with their internal administration. Let them have it. Please give them the same independent status as they enjoyed during the old Burmese times. I believe we Burmese have no objection. But if you should decline to give them their first request, then I, for one, would appeal to my friends the Shan Sawbwajis to join wholeheartedly in our Burma constitution or federation.

We will welcome them with great pleasure.

Sir O. de Glanville: My Lord, I do not think that my friend Tharrawaddy U Pu has clarified the situation particularly well; nor do I think he has expressed clearly, as I understand it, the position of the Shan Chiefs. The Shan States at the present time are administered by the Sawbwaw under the Governor of Burma and His Excellency the Viceroy. They have nothing whatever to do with the Governor in Council in Burma—the Governor in Council meaning, of course, the Governor and his two Councillors who deal with reserved subjects. They have no voice whatever in the control of the Shan States, which are directly under the Governor and the Viceroy, and, of course, the Secretary of State. I understand that they want in future to remain under the Governor and the Secretary of State or under the Viceroy and the Secretary of State. Obviously what I think they would like,

would be to be under the Governor of Burma and the Secretary of State, with no interference from the reformed Government of Burma. I think that is the position. Now at present the defence of the North-Eastern Frontier is, of course, under the Viceroy, and is not so far transferred. I do not think that any Member of this Conference contemplates that it will be transferred to popular control in the new Constitution of Burma. The defence of the North-Eastern Frontier is paid for by Burma out of the proceeds of the customs and income tax, which are collected by the Government of Burma. The Shan Chiefs themselves, as far as I know, contribute nothing to the defence of the frontier except what they contribute through income-tax collected in their States, mostly from foreign corporations, and from the customs. Now if Burma is separated from India, the customs and the income-tax will be collected by Burma, and Burma, of course, will have to take over the liability for the cost of the defence of the Frontier, which will, I take it, under the reformed Government be carried out, not by the reformed Government of Burma, but will be a reserved subject in the same way that it is now; and all that will then remain between the Shan States and the Government of Burma, if they do not come in, will be merely financial adjustment. That is hardly, I think, a matter for this Conference, even in Committee, to settle. It must be settled between the Shans and the Government. I am not clear, but I think that is the position; and I would like to know whether the Sawbwas agree that it is.

Chairman: If no one wishes to prolong the discussion, I think I can generally assume from the trend of it that, though there may be some subjects afterwards of importance—I do not know whether we may have to discuss them or not, but obviously there will be some subjects left over as to the relations of the Shan States to the Governor and the Government of Burma—for our present purpose we can come to the provisional decision, that for the purpose of considering the structure of the Burmese Constitution we can omit or exclude the Shan States. That is all, for the present moment, we want to settle provisionally. If we can agree upon that, we might proceed to the consideration of the constitution, the next business.

Tharrawaddy U Pu: They have not said that they do not want to come within the Burma Constitution. Do you not think it would be proper to go into that question now, and allow them to join us if they wish?

Chairman: I think they have said quite clearly that they do not want to send representatives to the Burmese Assembly. That is quite clear, and now the ground is open for us to proceed with the next subject.

Mr. Haji: Before we proceed, I should like to express my agreement with Tharrawaddy U Pu that we should know exactly where we stand in this connection. The Sawbwa of Hsipaw made a speech this morning, and after that we had Tharrawaddy U Pu's comment upon it. I found it difficult, at least until I heard Tharrawaddy U Pu, to reconcile the speech of the Sawbwa of Hsipaw with the statement of the Shan Chiefs at page 5 in the document before us. But now that Tharrawaddy U Pu has put a proper interpretation upon their intention, we have it on record that in the future constitution of Burma which we are now framing, the Shan States would like to

have a place in the federal form of Government if certain points—four in number—are recognised and allowed.

But before we proceed with details as to whether there should be two Houses, it is necessary to know where we stand in this connection, because if the Shan States are going to join the Federation then the whole of the structure of both the Houses will be entirely different, and the details will have to be worked out on a much larger scale than would otherwise be the case. My friend Tharrawaddy U Pu suggested that this was so, and said that, in order to enable the Sawbwas themselves to get a clear conception of their constitutional position, it was desirable to have a statement of policy from the Government. Whatever that statement may be, I wish to point out that it is most essential that we should have it now, because, as I understand the position, the entrance of the Shan States into the future Burma constitution as a federal unit is dependent upon their conception of their status. Unless they are satisfied with regard to their future status they will not be in a position to make up their minds, and I am afraid we shall not be able successfully to carry on our work of going into the details of the constitution.

U Ba Pe: My Lord, before he gives his answer, may I put another question to him so that he can deal with the whole of this matter? So far as the Shan States are concerned, there are three possible positions. One position is where the Shan States join the Burma Federation and send their representatives to the Legislature under the new constitution in Burma. The second position is where the Shan States are cut off entirely from Burma and have nothing whatever to do with Burma. They will not be under the Governor of Burma, but will be controlled directly by the Secretary of State. That is another position. In between the two, there will be the position where the Shan States will enjoy full autonomy in their domestic matters, but will have some relations with the new Government of Burma.

Now, Sir, I believe they are not willing to adopt the first position, and I am not sure whether they are out for the second position, where they would have nothing whatever to do with the future Government of Burma. If they want the third position, where they will have relations with the new Government of Burma while retaining control of their domestic affairs, then without our consent they cannot come in. We want to be sure of our position before we can say whether we can accept them or not.

This is, therefore, not a matter which can be disposed of by a few speeches here, and I think it would be better to go into it by means of a sub-committee instead of merely having a few speeches here.

U Tharrawaddy Maung Maung: I am in favour of U Ba Pe's suggestion for a sub-committee, because I think this is an important matter from the point of view of defence. The Shan States being Frontier States, the defence problem is very important, and unless we are sure that our defences on that side of the country are well secured, we shall have to make some other arrangements. Whether they are independent States or part of a Burmese Federation, we must at all times look after the defence there. Burma is most vulnerable on that side, and unless we are ensured that the defence on that side is really secure we shall know no peace about it. We are afraid that, if they are

independent States, they will not be able to look after the defence so well as if they were a part of a Federation. Our real desire, of course, is that they should come in with us, and we have appealed to them to do so, so that we may arrange the problem of defence mutually; but if they want to be independent they will have to satisfy us that the defence will be properly looked after.

Lord Lothian: Is it the Sawbwa's wish, as representing the Shan States, to be represented in a Burmese Legislature or not? Could he give a definite answer to that question?

Sawbwa of Hsipaw: I feel that representation in the Legislature is of small advantage to us, because the laws in Burma are different from our own laws at present; and the laws that may be extended to us if we come in are not even Burmese laws but Indian laws. Our people cannot understand all these things and they object to them. It is not only the Chiefs who object but the people. I think our friend U Pu is in agreement with us to this extent, that we do not want interference from either Government; we want our independence on Central matters.

I have already mentioned that the relationships that we may have with Burma of mutual and common interest will no doubt be thrashed out later, whatever they may be, whatever you may consider is common interest. I am not saying defence or anything, but I put it all together. I cannot enumerate our common interests until we discuss them later. Supposing telegraphs are common interests; and imports and exports; we must have that relationship between the two. We are going to be brothers, I hope. We do not want to rule you, and we do not wish you to rule us.

Lord Lothian: I think that clears the air to this extent. It is quite clear that the Shan States are not going to be represented in the Legislature. That leaves a large number of other questions to be settled—the relationships between the Shan States and Burma, in whatever form, the customs, and so on—but we are, at this moment, I think, mainly concerned with trying to get the structure of the constitutional Government, what is the Legislature to which some measure of responsibility, still undefined, is going to be entrusted. In that Legislature the Shan States are not going to take a place. Therefore, I would suggest to the Conference that the wise thing would be to proceed with the consideration of the nature and composition of the Legislature for Burma, and leave the question of the relations of the Shan States with Burma to be settled later on.

U Maung Gye: There is no question of the Shan States sending representatives to the Lower House, but I am not quite sure whether the Shan Chiefs are quite definite that they may not wish to send representatives to the Upper House—in case we have two Houses, of course.

Sawbwa of Hsipaw: It depends upon the duty of the Upper House. If it deals with the common interests, I would suggest that we should not be perpetually asked to go down to Rangoon. Let us have a settlement for five years at a time.

Mr. Isaac Foot: But if the structure is settled, if we proceed with the structure, there is nothing that will prevent the subsequent discussion as to the Shan States having representation in the Upper House to deal with the points that have been mentioned by Lord

Lothian. There is nothing that would hinder us from passing to the general question of a structure for Burma. I understand that whilst the Sawbwa, speaking for himself and his brother Sawbwas, is not anxious to have representation in the Legislature, there is no demand upon the other side and no anxiety that they should be forced to come into any such Legislature. The only thing that now remains is to set up the outline of the structure, and there is nothing to prevent the Sawbwas seeking representation in the Upper Chamber when it is established.

Tharrawaddy U Pu: The question of Lord Lothian, as far as I understood it, was whether the Shan Chiefs would like to be represented in the reformed Legislature. The answer was "No," because they were expecting independence within their own territory. Supposing they cannot get that independence in their own States, supposing they cannot rule themselves independently of Burma or independently of any other person, would they not like to have representatives in the Burma Legislature at the next reforms?

Chairman: I do not think we can deal with too many hypotheses. We are on the simple question, at present, whether or not the Shan States do, or do not, wish to send representatives to the Legislature of Burma. They have answered most emphatically that they do not. The other questions suggested by Tharrawaddy U Pu as to what will happen in case they are not satisfied with certain arrangements that subsequently may be made for their internal government are, I think, hypothetical, and, if we proceed on that basis, we shall never get on at all.

I think we might assume, anyhow for the present, that the Shan States do not want to send their representatives to the Legislature.

U Chit Hlaing: As far as I understand, the memorandum which was submitted to the Secretary of State in December, 1930, was signed by the Sawbwa of Mongmit State and the Sawbwa of Yaungghwe State. Our friend the Sawbwa of Hsipaw was not a party to that. The Sawbwa of Yaungghwe State is now here and he was a party to that memorandum. If I may say so, as far as I can gather from the Sawbwas, they cannot openly say what they want in this full Committee or in this Conference. If a sub-committee be formed to consider their status, they will be able to represent their case more fully and to the satisfaction of the sub-committee, who can then report to the full Committee or the Plenary Session of the Conference. I am fully of opinion that it will be to the interests of Burma, as well as that of the Sawbwas themselves, that there should be set up a sub-committee where they can fully state their case without fear that some remarks may be used against them when they return to their country. I assure you there are some Government representatives from Burma who are here; their speeches and remarks here would be reported and they would be treated very shabbily on their return to their own States. That is why they have not the courage to speak out their minds in this full Committee. If their statements were to be taken in the sub-committee, they would speak out their minds and you would get the position cleared. The sub-committee could report their considerations to the Plenary Session, and that would clear up the whole position. I can assure you, My Lord, that influences have been working since their arrival in London

by some people who say: "Do not join with Burma." This morning, we have been told that the Shan Chiefs were not willing to join with Burma. When I met some of the Shan Chiefs at a quarter to eleven here in this Hall, they said the other thing. How is this? There must be some interested parties working against their interests.

Therefore, I submit to you, My Lord, and to this full Committee, to appoint a sub-committee where the full statement can be made by the Shan Chiefs without fear of being molested on their return to their own States. I submit that a sub-committee for the consideration of the Shan States be formed to report to the Plenary Session.

Lord Winterton: I have seldom listened to a speech less convincing than the one just delivered. Before the last speaker comes here and charges his colleagues with being subjected to intimidation he ought to give facts in support of it. I hope we shall hear no more of these wild charges.

Lord Lothian: The practical course is that this particular question should be temporarily reserved from the discussion of this Conference, the question, namely, of the relations between the Sawbwas and the Government of Burma. We are concerned here, mainly and primarily, with drawing up the constitutional structure, and we cannot get further until that question has been faced and some provisional conclusions arrived at. I urge the Conference to proceed to consider the basis upon which the new Legislature of Burma should be founded.

Mr. Campagnac: I agree with the remarks made by Lord Lothian. I should like to have a statement before us, drawn up by officials from Burma, setting out the exact relations which now exist between the Government of Burma and the Shan States; for example, the tribute paid, the amount which the Legislative Council votes every year to the Shan States, and the position in the event of entire separation of the Shan States from Burma so far as this would concern the defence of the North-Eastern Frontier. I should like, also, to know what would happen to the customs. At the present time the customs go to the Government of India, and if the Shan States remained with Burma I take it the customs would go to Burma; if they remained outside Burma, the customs would go to the Imperial Government, who would have to pay towards the cost of defending the North-Eastern Frontier. If we could have a statement on those lines we should be in a better position to form an opinion as to whether we should have this sub-committee.

Chairman: I think we should now proceed to discuss the question of the Legislature. We have heard the views of the Sawbwas, and there are other questions which have arisen.

Tharrawaddy U Pu: Do I understand the reservation of this question to mean that it will be taken up in the course of the Conference or at the conclusion of the sittings?

Chairman: These questions will have to be considered later—at what time, or how, or whether the Government will make a statement I cannot say.

Lord Winterton: I gather that it is definitely settled by the Conference that the Shan States are excluded, and only the question of certain relationships will arise.

Tharrawaddy U Pu: No, My Lord.

Lord Winterton: We must come to some agreement. I want a ruling on this point. I understand we have now agreed at this Conference that the Shan States are not to send representatives to the Lower Chamber. That matter is settled. The Shan States do not want to do so.

Chairman: We have had a discussion on the subject, and I have already said that our conclusions must be provisional until we have the whole scheme before us. Our provisional conclusion, for the purpose of considering the Legislature, is that the Shan States shall be excluded.

U Ba Pe: I am not quite clear about one point. As Lord Winterton says, they do not want to come in, and that is more or less clear; but the other point is not clear. I want to know whether they want to cut away from Burma altogether or to remain in relationship with Burma, which is the position they are in at present.

Chairman: I do not think that question really arises now; it is a further and subsequent question. I am only dealing with the more limited point of whether they do or do not want to enter the Legislature. That is the point we are on. All the other questions as to what their future position may or may not be are really not before us at present, and you cannot, I think, by question and answer try to get them to answer all these very difficult questions. They are not really strictly relevant to the exact point before us.

U Ba Pe: My difficulty is this. If they are going to cut away entirely from Burma, we can proceed without reference to them altogether, but if they want to remain with Burma, as a part of Burma, while enjoying independence in their own internal affairs, they may come into a Second Chamber. I want to know exactly what they propose in that respect before we proceed to deal with the constitution of the Second Chamber.

Mr. Wardlaw-Milne: Surely that has been made perfectly clear by the Sawbwaji himself. What he desires is that he shall take no part in the Legislature of Burma or in the working of the constitution for Burma which will be set up, but will naturally require such trade and other agreements as may be needed because of the proximity of the States to Burma. That is perfectly natural, but surely these questions cannot arise until we know what decision the Conference comes to regarding Burma proper. When that decision is reached and a new constitution has been set up for Burma, the necessary arrangements will have to be made with the Shan States, and the Shan States will naturally require that these matters shall, later on, be considered; but clearly they cannot be considered until we have decided what form the new constitution is to take.

Miss May Oung: I did not hear the Sawbwaji say he would not like representation in the Second Chamber if we have one. I should like to hear him say that definitely.

Sawbwa of Hsipaw: We certainly cannot enter the Legislature, because by doing so all the laws, as I have said before, will be extended to us, and to that we object and have always objected. We have our own laws, and we want to retain our own laws. Our laws would be overridden by new laws and we should be in a worse position than we are in now.

Chairman: I think you have had the answer, and the view of the Shan States is now quite clear.

HEADS 1 AND 2.

1.—THE QUESTION OF A SECOND CHAMBER

2.—METHOD OF ELECTION TO A SECOND CHAMBER AND QUALIFICATIONS OF ELECTORS AND CANDIDATES.

The following points for discussion in connection with Head 1 were drafted by the Chairman:—

- (i) *Desirability of a Second Chamber.*
- (ii) *Powers of the Chamber.*
- (iii) *Size of the Chamber.*
- (iv) *Composition of the Chamber.*

The following points for discussion in connection with Head 2 were drafted by the Chairman:—

- (i) *Method of Election.*
- (ii) *Liability of the Chamber to dissolution.*
- (iii) *Tenure of Members of the Chamber.*
- (iv) *Qualifications of Electors (if direct election is decided upon).*
- (v) *Qualifications of Candidates.*
- (vi) *Age limit for Candidates.*
- (vii) *Method of filling casual vacancies (if indirect election is decided upon).*

U Ba Pe: Before we begin the discussion as to whether we should have a Second Chamber in the new constitution for Burma or not, I should like to make a few observations.

At the general discussion I had the honour to present, on behalf of the eleven Delegates on this side of the House, our views, and, especially, the aim we are striving to achieve in this Conference—namely, the attainment of responsible self-government on an equal footing with the other self-governing Dominions. The general discussion that followed my statement shows with great clearness that there is no objection to the proposition made by us except in so far as some of the speakers want to have some safeguards or reservations, especially the minorities, who want to have special provisions made in the new constitution of Burma to safeguard their interests; and I want to know whether we are going to proceed with the discussion on the line of the impression which was left on our minds—namely, that we are trying to evolve a constitution that will bring Burma to her hoped-for goal, full responsible self-government on Dominion lines. Are we to proceed on that basis? Otherwise, we would be groping in the dark.

Lord Lothian: Whatever the ultimate solutions of those larger questions are, we first must decide the type, the organisation and the structure of the Legislature. If it is a question of transferring responsibility to Burma, the only body to which that responsibility can be transferred is a Legislature, and you cannot consider the further questions until you have determined what kind of Legislature you are going to have, whom it represents, and what protection is to be given to the minorities. You cannot possibly answer any of those questions

until you have decided the structure. That is what the whole experience of the Indian Conference taught us, and I am quite sure it will be the experience of the Burma Conference. You cannot proceed a yard until you have determined what kind of Legislature you want to have in Burma, whom it should represent, what balances there should be within itself. When that question is settled, you can then go on to decide the further questions of the nature of the responsibility which is to be entrusted to it.

Tharrawaddy U Pu: Lord Lothian mentioned just now the example of the Indian Conference. The Indian Conference started in 1930, and provisionally finished only the other day. Up to date they have not been able to build a house, because they started from the wrong end. That was a mistake. They did not know the type of house that was to be built when they met at the Round Table Conference and tried to construct a building. They wanted a house called "full Dominion Status," which you did not let them know, at that time, that you were not going to give them. You wanted to give them responsible Government with certain safeguards only. That you did not mention until after they had sat for a long time. That is why I consider they have wasted a lot of time. If His Majesty's Government had told them: "Look here, you may be aspiring for full Dominion Status but we are not going to give that full Dominion Status to you; we are only going to give you a type of responsible Government with safeguards"—they would have been able to have built up a house to suit that offer.

Now we Burmans, in turn, are to build a house. We do not know what sort of house we are going to build. You ask us to put a roof on now. What sort of roof are we to put on? Are we going to put on a thatched roof—a bamboo roof as we call it? Are we to put up a building with a roof? You have not said a word as to that. We must be told the type of house we are to build. Before you build a house it is usual to tell the architect to draw a plan. We are, in a way, architects. You ask us to build a house; but what house are we to build? We want to know that. In our minds, I tell you, we will build a house, a house of full Dominion Status. At long last you will say: "This house will not suit at all; we are not going to give you full Dominion Status; we are giving you the same status as we offered to India," or "We are not going to give even that." We should be wasting your valuable time and our valuable time. That is why I want to know. Please tell us plainly. Do not let us waste time. We have not many difficulties. We have no minority difficulties, no difficulties at all, as a matter of fact. We can settle among ourselves with our friends; we may not ask you to help us. We have not the minority difficulties and we have not the other difficulties that stood in the way of building a house for India. We do not want diplomacy; we do not want misunderstandings; we do not want to use words and phrases which will permit of double interpretation; one interpretation within the British head and another interpretation within the poor Burman head. Please tell us what you are going to give us. We must know whether you are going to give us full responsible Government, as we ask for, or otherwise. Let us know; then we will build a house suitable for that type of constitution which you may give us and we may not waste your time.

Lord Lothian: I think we understood that this Conference was assembled in order that the British Government might in the first place hear the views expressed by the Burmese Delegates. We did not think that the right course was, before having heard your views, to go down and place on a table, conclusions at which we had already arrived. That would not be the right way and it would not be the correct way to treat this Conference. We wanted to hear everything that you had to say before making any conclusions about it. I think there cannot be any dispute that, whatever the ultimate solution may be on the questions which you have raised, the first and vital work is to determine the constitution and nature of the Legislature. Whatever the ultimate solution is, you have got to do that first. It is not the roof; it is the foundation; and no answer can be given on the question of responsibility until it is more or less determined to what kind of body you are going to give responsibility.

I would therefore urge the Conference to proceed with the primary work at this stage, namely, that of determining how the Legislature shall be composed.

Mr. Wardlaw-Milne: Tharrawaddy U Pu has continually used the word "us." He has said, "Will you tell us?" Who is "us"? That is precisely what this Conference is here for. The Conference is here to decide who the "us" is, that is to say, what the form of the future Government of Burma shall be. It is quite clear that the Government cannot give a decision as to what they will hand over to a new form of government in Burma until they know what that form of government is. The first thing we have to do is to put up to the Government a plan for the future government of Burma. They have asked us to be the architects, and it is for us to put up a plan. They cannot say now what could be handed over to such a body, they must wait until they know that that body will be truly representative, and will ensure a safe future for Burma.

U Ba Pe: I am glad to hear the last two speakers, because they come to my support. In the case of the Indian Conference, of which I was a member, we had five days of general discussion and as a result two important facts emerged, first, the federation idea, and, secondly, the idea of responsibility at the Centre with provision for autonomy in the Provinces. The Conference proceeded to build up the constitution on that basis, *i.e.*, Federation with responsibility at the Centre. In this Conference we have had two days' discussion, as an outcome of which, a remarkable result emerges, namely, that responsible government on a Dominion basis, with safeguards for minorities, should be the future government of Burma. The Legislature, as pointed out by Lord Lothian, is the foundation. The type of building must be known before the foundation is laid. If it is to be a heavy structure we must have a deep foundation below. Unless we know the type of constitution we are out for, it is not an easy matter to lay the foundation. I think we should proceed on the presumption that the result of our two days' discussion is, that Burma should have a constitution on Dominion lines, with safeguards for minorities.

U Maung Gye: The question which has been raised is of some practical importance, because we cannot approach the items of business before us unless we know our position. Take item 1, the question

of a Second Chamber. If the measure of self-government which we are likely to get as a result of our discussions here is only that which has been described as provincial autonomy, I do not think we need a Second Chamber; but if the Legislature will have to deal with what are now called Central subjects, as well as Provincial subjects, then it is a matter for serious consideration whether we do not want a Second Chamber as a revising Chamber. Therefore, if the Government is not in a position to declare its intentions with regard to Burma, we shall proceed on the assumption that we may build a constitution which will admit of full responsible self-government.

Chairman: I am not quite clear what the Conference wishes, because, as I have said before, there are two ways in which the Government can proceed. One is for them to come and say "These are the heads of our constitution for Burma." They might be drawn up in a most elaborate form, almost in the form of a Bill, and they might come before you and say "This is what we intend to set up for Burma." In that case, I do not think the Conference would have much to do except to say that they agreed or disagreed. That is one possible method of procedure.

I understand that the Government have chosen the other course, which is to say "No, before we make up our minds definitely on the kind of constitution which will be suitable for Burma, we will call a Conference together. We shall then have the free expression of opinion from all quarters in Burma, and when we have heard that, it will be far easier for us to come to a decision as to whether we should accept, or reject, what may be either the unanimous or the majority views on the various subjects of the representatives of Burma."

Those are really two different and rather antagonistic principles, I think. Tharrawad-ly U Pu has confused me a little by his house-building metaphors and I am not certain whether you ought to begin to build a house by constructing the roof first, or the foundations, or the centre of the house! When we get into these rather elaborate metaphors we are apt to get a little confused in our minds.

Those, however, are really the two ways in which this matter can be approached and I am not quite sure which the Conference wishes. Does it wish the Government to come down here—because, if that is so, I will tell the Government that that is the view of this Conference—and say "We do not want to hear that views of the representatives of Burma"? Are we to say we want the Government to lay down exactly what the constitution should be? I want to be as clear as I can as to what is actually wanted, but I should have thought myself that, as Lord Lothian says, our simplest way would be to proceed in this order, dealing with the question of the Legislature, and then, when we see how the Legislature is composed, determine the provisions to be made for minorities, and so on, I should think the Government would be in a far better position to decide the degree of responsible government that should be put in the statute and granted to Burma.

U Ba Si: My Lord, as far as this Conference is concerned, Your Lordship has no alternative, I think, but to follow the trend of events—that is, to proceed on the assumptions as indicated in the general discussion. We cannot throw away the indications that were clearly made in that general discussion, and, at a later stage, it will

be open to us to refer any question to His Majesty's Government. Our work as a Conference must proceed upon the assumption that has been indicated by the general discussion. I do not think there is any alternative.

U Ni: May I associate myself with the statement made by my friend, U Ba Si. I knew from the beginning when we were invited, and when we had heard the expressions of good sympathy on the part of the British Government as expressed by the Delegates from the British Government, that the best thing for us to do is to do our business and evolve a scheme as indicated by Your Lordship.

Chairman: May I say, as one point of difficulty that was raised, that we are proceeding on hypotheses. We cannot help that. We are proceeding on the hypothesis of Burma being separated from India. Two things then, are quite clear. One is, that there does not seem to be any desire for a federal system such as was proposed to be set up in India; you prefer a unitary system. It becomes, therefore, clear that subjects which are Provincial in India, and now Provincial in Burma, will have to be merged with subjects which are called Central in India, and that one Legislature will have to deal with both of them; and it is quite clear that in constructing your Legislature you must bear that in mind. That point, I think, is a definite and clear point—that you do not want to have first of all the whole of the machinery of the federal structure and then Provincial Government as well. You do not want that, and therefore it follows that one Legislature, whether of one or two Houses, will deal with both subjects.

Mr. Ohn Ghine: It seems to me, that the key to this question of the Legislature, as well as others, is the minority question, and unless the situation is cleared up with regard to that particular question, it may be very difficult for us, if not impossible, to state exactly what we want. Difference of view will naturally come about here, and that seems to me to be undesirable if it can be avoided. I would therefore like to suggest that, before we definitely get to the discussion of this question, the minority question should be considered through a sub-committee.

Chairman: Well, I really think that the discussions about the minority question had better be in this full Committee. As I have said before, I am very averse, unless it is absolutely essential, to setting up these sub-committees, which are very difficult to shape, where everybody wants to be represented, and where we get the discussion all over again when we come here. I regard it as one of the great advantages of this Conference or Committee, as compared with the Indian Conference, that we are a compact body. I think we are not given to such long speeches, if I may say so without disrespect to them, as perhaps were made on the Indian Conference. We have all our battalions concentrated here; we have all our brains concentrated here, and I think we can bring them to bear on these subjects as they are brought up. I do not think the minority question can be separated from all other questions. With all respect to your suggestion, I think those points will come out in the course of the discussions on the Chambers; they are bound to come out; therefore, let us have them out here frankly before us all. If, subsequently, we

are bound to have a sub-committee, if the Conference really wishes it, of course naturally I would not oppose it; but until we see the necessity of it much more clearly than I see it now, I think I should prefer to have these things thrashed out quite publicly before the whole Committee of the Conference.

Now, may we invite a Member of the Conference to start the discussion upon these constructive questions in the order circulated?

U Ni: The first item on the Agenda is the desirability of a Second Chamber. From the experience we have gained from other countries we find that, in almost all the Dominions, as well as in other places, there are two Houses. The names are sometimes different, but the nature just the same. In Burma, also, by having that kind of Chamber we shall have a machinery which will have a very steadying influence as it usually exercises in other countries. We shall have a place where we can get all the best brains and experience of public servants of our country. I do not think I need repeat to the Conference the advantages which a country usually derives from having an Upper Chamber, or an Upper House, or a Second Chamber.

As regards the powers of the Chamber, and as to whether it should have equal power with the Lower House, that depends a great deal on the size. If the size of the Upper or Second Chamber is fairly small, then we may think it quite safe to give it equal powers with the Lower House. But if that Upper House is going to be a fairly big one in numbers, then I for one, think that kind of House should not have equal powers with the Lower House.

My idea as to size is, that it should be a little less than half the number of representatives in the Lower House. Certain schemes were drawn up in Burma before we came here, and I think I might mention the one which I drew up at the request of the Hundred Committee. According to that scheme, 60 is the number which we should deem suitable for an Upper House in Burma.

Chairman: That is assuming that the other House is about double?

U Ni: About double, or a little more. According to the other scheme adopted by the Separation League, the number is about 45, rather smaller than what we propose.

Chairman: I was going to ask you as you go along to go into a little more detail about the Second Chamber, not merely what its numbers should be, but what its powers should be in relation to the other House so far as Bills are concerned, whether Money Bills or ordinary Bills, and so on.

U Ni: Our idea is that the Upper Chamber should be about half the size of the Lower House, or a little less. With that kind of Upper Chamber, I do not think it will be necessary to give overruling powers in regard to such Bills as Money Bills—financial Bills initiated or passed in the Lower House. On that point we have, of course, studied other constitutions also, to see what the best procedure is, but I do not think it is necessary for me to go into too much detail on that point. It is quite clear that, especially with regard to Money Bills and so on, we cannot allow the Upper House to go against the wishes of the Lower House, which latter, of course, will ordinarily be composed of the people who pay the taxes.

Chairman: Unfortunately the Upper House pays them too, as we know.

U Ni: That is quite true, but the method of election there might just take away that quality, because in the Lower House, at least, according to me, we shall have representatives chosen by direct election; but in the Upper House, I do not think the system of direct election will be the chief, or the only method of choosing representatives.

Chairman: Perhaps you will tell us your view as to the method which should be adopted for selecting or electing representatives—whichever it may be—for composing the Upper House.

U Ni: I will come to that point at once, My Lord, and say that, with regard to the method of choosing representatives for the Upper House—whatever it may be called—I have read statements prepared and given to us in connection with this matter, and I have also read Sir Hubert Carr's remarks on the subject, which are to be found on page 471, Appendix 11, of the Indian Round Table Conference Proceedings, Part II, with the headnote "Note on Second Chambers." I have also read the method proposed by the Separation League, which is one of the associations in Burma.

My view is that a combination of certain measures adopted in various other places should be adopted here, and I would divide the members into four classes. First of all, I do not want to do away with the method of sending representatives by direct election. I do not want to do away with that, so if we take the number to be 60, I would rather have one-fourth of these members to be returned by direct election to the Upper House—one-fourth only, not all. Then the question of the remaining three-quarters is left. As for the second one-fourth, that is the second batch of 15, I would not mind having them returned by the Lower House. With the Lower House as an electorate, they will elect 15 of the Upper House 60 by means of proportional representation or the single transferable vote. Then the other two portions are left, the other two batches of 15. As for that, I find that in some cases they allow the Cabinet to elect or to nominate a proportion of the members of the Upper House, that is by having a kind of panel. There are various ways in which the Cabinet elect a proportion of the representatives for an Upper House, and one method which I should say appeals to us, to my friend U Maung Gee and others who have discussed this, is to have a kind of panel of the candidates. That is the third quarter to be nominated by the executive, I should say. We follow the Irish method—that is, we favour the Irish method.

Chairman: You have told us about three of the quarters. Would you like to deal with the last quarter?

U Ni: I am not, at present, quite sure about that, but I can say one thing. I do not want to leave it to the choice of the Governor. On that I am clear. That does not mean that I do not want to give the Governor the power of choosing some others; but when any of these methods fail, I would rather leave the residuary power to the Governor, to have the numbers filled up by him.

Chairman: To fill them up?

U Ni: Yes, but not otherwise.

Chairman: Do you wish them elected or selected for the life or for the duration of the Lower House, or for a longer period?

U Ni: I do not mean for the transitional period, but for the ordinary life in the future of that House. It may be I should say seven years, or even nine years; but a portion of the members of that House might be retiring by groups, in order gradually to bring in a fresh element and keep in real touch with the people and their constituencies.

(The Committee adjourned at 1-12 p.m. and resumed at 2-30 p.m.)

U Ni: At the outset of my statement, I mentioned that I would not, at this stage, enter into very much detail. I want to deal with the matter quite generally on item 1 of the Agenda, consisting of the four subjects relating to the Second Chamber which are there set out. I will try to confine myself as much as possible to those items.

I have mentioned the various methods of election which I would propose for the filling of the Upper House, and it seems fit that I should, at this stage, mention the procedure which I think should be taken in choosing the remaining 15 representatives.

As regards this point, My Lord, the idea is to have electoral colleges composed of various interests. We have in Burma, bodies such as district councils, municipalities and so on, and this last batch of 15 members should be chosen by representatives of these bodies. Universities may also be included, and perhaps teachers, doctors, and so on. I do not want to go into the matter in great detail at the moment, but that is how I should like the last batch of 15 members in the Upper House to be chosen, and I am opposed to their selection by any form of nomination.

Chairman: You do not want that last quarter filled up by nomination?

U Ni: No.

Chairman: You suggest nomination for the third quarter, but for the fourth quarter you want electoral colleges representing the district councils and so on, and possibly the universities?

U Ni: Yes. I am opposed to nomination, because if we include such an element it may be said—and it may be true—that the Upper House will not be speaking in the name of the people. In the last quarter, representatives of the Labour Unions may be included, and perhaps representatives of the legal and other professions. The scheme as drafted by the Separation League says that there shall be seven members nominated by the Governor, on the recommendation of the Prime Minister, to represent important interests and institutions in the country. I think I have made it clear that I should not like to have that method of appointment to the Upper House.

If possible, we might have some procedure by which, if people do not want to have this Upper House in the future, it may be abolished. I merely say that, if possible, that may be done.

U Tharrawaddy Maung Maung: The speaker has repeatedly said that he does not want nomination, but for his third quarter I understood him to say that he wants nomination.

Chairman: I understand the point is, that he wants the third quarter to be nominated by the Government and the fourth quarter chosen by electoral colleges, and in that fourth quarter he does not want nomination. That is what I understood.

U Ni: That is so. With regard to that quarter, I do not want to be misunderstood. When I say that the third batch of fifteen representatives should be nominated by the Cabinet, I mean by a free Cabinet responsible to the Legislature and composed of members freely elected by the people. I had in mind that sort of Executive, and I do not think that this nomination is equivalent to the nomination made by the Governor.

U Maung Gye: On the recommendation of the Prime Minister.

U Ni: Well, it is not the Governor who will elect that batch of fifteen. They will be elected by the Cabinet. Of course, the Governor's influence will be well felt by the Cabinet at all times; I know that, but do not wish to confuse it with the second batch of fifteen to be elected, by saying—if the word nomination is not correct—should be elected by the Ministry.

Chairman: We had better keep the words clear, because it would really mean nomination, would it not?

U Ni: That is why I would rather say elected, not by the Governor, but by the Cabinet.

U Maung Gye: They have a joint responsibility.

U Ni: They have a joint responsibility. I think I have stated that the life of the Upper House may be nine years, whereas in the Irish Constitution, I think, it is twelve years. I want to confine myself to item 1 with the sub-items (i), (ii), (iii), (iv), and I do not know whether I shall be going over to the other items if I mention the franchise.

Chairman: The franchise, I suppose, we shall discuss better with the Lower House, but I wanted to ask you a question about your first quarter, which is to be elected. Would you care to state whether that franchise should be the same as, or different from, that which elects the Lower House?

U Ni: Yes, My Lord. The first batch will be elected by the people. Of course, the franchise I have in mind is quite different from the franchise which will elect representatives to the Lower House.

Chairman: A different franchise.

U Ni: Yes, it will be higher, I should think, as high as possible, but also such as not to disqualify so many voters who ought to have that franchise.

Chairman: Of course, you realise that it would be a pretty large constituency, would it not, if fifteen are to be elected over the whole country? They are large areas.

U Ni: It is a large area, and that is why some restriction may be placed on the qualifications for the franchise.

Major Graham-Pole: It does not effect the area?

Chairman: There would be less heads in the same big area.

U Ni: Yes, that is the idea. At present, I think, as mentioned in the note, some of the voters who can send representatives to the Senate in India must have property qualification of Rs. 3,000 for the land revenue and Rs. 5,000 for income-tax.

I do not want to go into too much detail for this particular purpose; but I might conclude by saying that there should be restrictions for this particular purpose, and the franchise would be quite different from the franchise electing representatives to the Lower House. I think I have almost exhausted the points mentioned in item 1 of the agenda, and, at this stage, I would prefer to content myself with so much.

U Ba Pe: My Lord, I am rather at a disadvantage in joining in the discussion of the question of the Second Chamber. In the first place, I do not know the attitude of the minority representatives on this particular question. Their attitude will have a bearing on the actual composition of the Upper House. In the second place, if Burma is not to have responsible Government on Dominion lines, I do not see the necessity of a Second Chamber. The necessity will arise only when Burma is going to be entrusted with power equivalent to that now enjoyed by the self-governing Dominions.

I will proceed to discuss the matter generally, on the assumption that Burma will get what we all hope for, namely, responsible self-government on Dominion lines.

The notes placed in our hands by the Conference Secretariat are, I am afraid, rather reactionary in many ways. My Lord, I look upon the Second Chamber not only as a check against rash legislation, but, also, as a place where you can find safeguards for other minorities. I am in perfect agreement with what Sir Hubert Carr said in the other Round Table Conference. These are the main points he advanced in support of the Second Chamber:—

“ It is now suggested that Second Chambers in the Provinces would be of the utmost value in giving stability to the administration of a Province, in assuring the return to the Legislature of responsible and responsive able statesmen, in solving the communal disagreement as to the proportion of seats to be held by each community, and in giving effect to the safeguards which minorities are demanding.”

I am in perfect agreement that the Second Chamber should not only act as a check against rash legislation, but also as a place where the minorities can safeguard their interests.

The second point in the note is the function and composition of the Second Chamber. I am not in agreement with the notes at all. The notes suggest that the power of the Upper House should be equal to that of the Lower House, including money Bills, except in granting and refusing supply. I rather prefer the position of the Second Chamber in the Irish Free State, where the Upper House is not on an equal footing with the Lower House. Article 35 of the Irish Free State Constitution gives the details, and my fellow-Delegates on my right, and myself cannot agree with what is proposed.

With regard to composition and numbers. Here, again, I do not think it is necessary to go into details but one thing is clear, that the Upper House should not be a replica of the Lower House.* "It cannot be hoped that a body which is almost a duplicate of the Lower Chamber will play any important part in, or make any useful contribution to, the political life of the country." While not a duplicate of the Lower House, the Upper House should have such a standing as to be able to check rash legislation, also to protect Minorities, and to carry in its proceedings the dignity which rightly appertains to it. With regard to the composition, I need not, at the present stage, enter into detail. The composition can be either communal, functional, or vocational; the method which will particularly suit Burma will have to be worked out in detail, and I am afraid it is not possible to do that in a Committee of this size.

Chairman: But you could give us your general idea as to that?

U Ba Pe: I might quote from another writer on political matters: "It must not be forgotten that the *raison d'être* of the Legislature is not only to reflect the opinion of the country, but to maintain good government. Schemes of electoral reform, whose object is to produce the best possible type of legislature, may therefore have to sacrifice something of the ideal electorate. The reflection of the opinion of the electorate in the Legislature is only partially feasible and not wholly desirable." This same writer goes on to point out that the scheme of government must be related to the conditions of the society which is governed, and account must always be taken of the peculiarity of the people to which, in each case, it applies.

For this reason, the suggestion that the qualifications of the voter for the Upper House should be such as to bring to the Second Chamber the qualifications of "distinction of leadership, authority and experience," should not be applicable to Burma in every case, as also the statement that the qualification should be membership of the Services and other posts of administrative experience. This would mean that a large portion of the native element would not find a place in the Upper House, which would be confined mainly to foreign settlers in Burma.

What I should like to propose for the qualification is that suggested, not in detail, but in principle, in the scheme for a reformed constitution adopted by the Separation League. There, they do not confine themselves to what is stated here in this note, but, also bring in those in public life in Burma, who not only have an intimate knowledge of their country and of the needs of their people, but who are in a position to contribute more by becoming members of a Second Chamber.

As regards the method of election to the Upper Chamber, I am not inclined to indirect election at present; I am rather for direct election by the Lower House. The method followed in the Irish Free State can, with modifications, be applied to Burma. I am against nomination by the Governor in any form. I am not against indirect election as such, but I do not think it desirable in Burma at present. There is

* "The New Democratic Constitutions of Europe," by A. Headlam-Morley.

also another suggestion in the note with regard to the inclusion of officials in the Upper House. I am opposed to that. The numbers in the Upper House should not exceed one-third of the number fixed for the Lower House, and the age limit of the candidate will be slightly higher than that for the Lower House—say 30 to 35.

In conclusion, I want to emphasise again, that we are agreeable to a Second Chamber on the assumption that Burma is going to have, not only what is known as provincial autonomy in India—that is, control only over subjects known as Provincial subjects—but also full control over what, in India, are known as Central subjects. In that case alone we do require a check over the Lower House; otherwise, I do not see the necessity for an Upper House at present.

Chairman: What are your views as to the powers of the Upper House with regard to ordinary legislation, financial legislation, and so on?

U Ba Pe: As regards the powers of the Upper House, as far as Bills are concerned, the Upper House should have the right to initiate Bills; but any Bill passed by the Lower House and rejected by the Upper House should come back to the Lower House again, and in the case of a deadlock there should be a joint session of the two Houses. Any Bill passed by the Upper House and rejected by the Lower House should not be sent to the Lower House a second time during the same session unless the Lower House wanted to raise it again on its own initiative, when it would be regarded as a Bill initiated by the Lower House. With regard to Money Bills and all matters relating to finance, the Upper House, as is the case in the United Kingdom, should have no power; the Lower House should have powers similar to those of the House of Commons here.

Chairman: You think that is a good thing?

U Ba Pe: That will suit Burma very well.

Sir O. de Glanville: My Lord, it must not be understood that, because we on this side of the Round Table, have remained silent this morning, we are in agreement with many of the sentiments which have been expressed on the other side.

I am in entire agreement with what fell from Lord Lothian and other members of the British Delegation, that we must first decide on the Legislature. It does not matter what powers we are going to entrust to it; those powers can be settled afterwards. We must, I think, whatever powers are entrusted to us, have two Houses. If we separate from India, certain of the Central subjects will, I think, be handed over to popular control—not all of them, but some. I am only saying what I think will happen. But we proceed on the assumption that some of them will, and therefore it seems to me that it is necessary that we should have the two Houses.

As regards the strength and composition of those two Houses, I would point out that, at present, we have a Council consisting of 103 members. Sixteen of those constitute the official bloc, and we have seven nominated members. That is twenty-three. If we eliminated from our new Council the official bloc, and possibly—not necessarily, but possibly—the nominated members, that leaves twenty-three seats more thrown open to election, and I think that 103 will be a sufficient number for the Lower House. I am entirely open to argument on

the point, but I am assuming, at present, 103 in order to arrive at the strength of the Upper House, for I think the strength of the Upper House must bear some proportion to the strength of the Lower House. If we continue with a Council of 103, all elected members, then I think that the strength of the Upper House need not be more than thirty, and of that thirty, I consider that half should be nominated and the other half elected. I do not think it will be practicable to elect those members by Universities or District Councils, but I think that the best way to elect the first fifteen will be by the Lower House—that is to say, we should have thirty members, fifteen elected by the Lower House and fifteen nominated.

In this Upper House I think that we should have a fairly high qualification for the candidate. At present the qualification of a candidate in the Lower House is the same as the qualification of an elector. If a man pays Rs. 5 for the year in taxes he is entitled to have a vote and he is entitled to be elected; but I think that we ought to have a higher qualification for the elected members of the Upper House and also for the nominated ones.

As to the powers of the two Houses, I would give power to the Upper House, as regards legislation, equal to the power of the Lower House. If a Bill is brought into the Lower House, it should only become law if it is passed also by the Upper. I need not go into the details as to what might happen if there was disagreement; that is a detail that we can settle in discussion; but, speaking generally, I consider that the powers ought to be equal in regard to legislation.

As regards Money Bills, and so on, I think we might well carry on the principle that we have now, where we do not introduce a Bill every year in order to obtain finance. The system in Burma is that each year, before the close of the year, a budget is presented and demands are made for grants. There is no Bill. Demands are made for grants and those demands are granted by the vote of the Legislative Assembly. We do not want an unnecessary complicated procedure, and I would like to see the present method of demands for grants continued. Those would naturally be made in the Lower House and not in the Upper. A question would arise as to what is to be done in the event of the Lower House refusing a demand. At present, in reserved subjects, if a demand is refused it can be restored by the Governor. In the case of the transferred subjects it cannot be restored by the Governor unless it is necessary for the tranquility of the Province and so on. I think we might consider what should be done under the new constitution if the Lower House refuses a demand or cuts it down so much that the good government of the Province is endangered thereby. We can, of course, give power to the Governor to restore it, or we might consider whether, in that case, the demand should not be referred to the Upper House. I am only throwing this out as a suggestion. I should like to avoid, if possible, putting too much responsibility on the Governor. If the demand were refused or cut down so much as to endanger good government, I think we might get out of the difficulty of compelling the Governor to exercise his reserved powers by referring it to the Upper House. I am only throwing this out as a suggestion which I hope may be considered. I do not think there is anything more on these first three heads that I need speak about. U Ba Pe said he would like to know

the views of the minorities on the question of representation in the two Chambers.

U Ba Pe: In the Second Chamber.

Sir O. de Glanville: Well, I may mention it with regard to both of them. As far as I know the views of the minorities, we want representation in the Lower House. The only way that we see that we can get it now is by separate electorates. If we have that, then we do not want any separate electorates for the Upper House. If the minorities are represented in the Lower House by single transferable vote, they are bound to have one, two or possibly three elected representatives in the Upper House; and if there are 15 nominations in the hands of the Governor, probably—not necessarily—there will be one or two more. I hope that expresses the views of all the minorities. These are briefly my views: that we should have our present system of election to the Lower House, and then I think the system I have suggested of forming the Upper House would ensure that we had a certain amount of representation there. I do not want any special constituencies electing Europeans, Indians or Karens to the Upper House.

Chairman: You suggested that half the House should be nominated and half elected. Would you care to tell us how those nominations should be made and by whom?

Sir O. de Glanville: I would leave it entirely in the hands of the Governor. I think any Governor we had would not draw lots out of a hat. He would probably consult various people before he made his nominations. Whom he would consult must be left to the man on the spot. I would put it entirely in the hands of the Governor without interference of anybody.

Lord Lothian: The Governor—not the Governor-in-Council?

Sir O. de Glanville: The Governor.

Lord Winterton: I want to ask one or two questions. It was my fault; I did not quite follow. If the Lower House refuses a grant or cuts it down, the Upper House can restore it—of its own volition or on the request of the Government?

Sir O. de Glanville: Of course it would have to be put up by the Governor. The Upper House would have no power of its own volition to do it, but a case might arise in which the Lower House refused the grant altogether for an essential public service. For example, this might take place. I remember once in the Burma Legislative Council, a motion was made to refuse entirely the grant for the Excise Department. That meant we were going to get all the revenue from liquor licences and so on, but they wanted to refuse the grant for the establishment which prevents illicit distillation, etc.

Obviously no government could carry on like that, and in the event of such cases arising, I think that the Governor, or the Government, could or should have the power to put the case up to the Upper House and obtain their views on it, in order properly to carry on the government. It is merely a suggestion I am throwing out as to how we might get over the difficulty, because it is rather difficult, in the case of transferred subjects, to give power to the Governor which he

does not possess now, except in the case of emergency, to restore a grant on the transferred side.

Mr. Howison: I have not very much to say on this subject. I have listened to what Sir Oscar de Glanville has just said, and I find myself in general agreement with his views. There is only one point which I would like to stress, and that is in regard to the fifteen members which it is proposed should be nominated by the Governor. I think—I am merely putting this forward as a suggestion—that it should be laid down somewhere in the constitution or in the Instructions to the Governor that, in making these nominations, due regard must be paid to the necessity for providing representation for any minority communities or special interests which may not have received adequate representation through the election of the other fifteen members. That, I think, is the only point on which I wish to touch at present.

Chairman: You are more or less in agreement with Sir Oscar de Glanville as to the size of the Chamber?

Mr. Howison: I am in general agreement with Sir Oscar as to the size of the Chamber.

Mr. Cowasjee: We would welcome two Chambers, the Upper and the Lower; and as regards the size of the Upper Chamber I think the figure which has been mentioned, namely, 30, is somewhat limited. I should like an increase from 30 to 50, or one-third of the strength of the Lower House.

As regards the method of elections, I agree with my learned friend Sir Oscar de Glanville, that half the members of the Upper House should be nominated by the Governor and not by the Governor-in-Council. The Governor should be expressly instructed, by some method which would be an effective instruction to him, that, in making his nominations, he must have regard to the special interests of the minority communities or the minority communities themselves, because the essence of this nomination ought to be that the interests of the minority communities are adequately represented in the Council by the exercise of this power of nomination.

With regard to the remaining one-half, I see no reason why there should not be direct election. At present we have elections in Burma for members of the Legislative Assembly and the Council of State. They are all direct elections from the whole Province, and I do not anticipate any difficulty in adopting a similar method for the election of members of the Upper House. If we give the Lower House the right to elect members of the Upper House, we take away the independence of the Upper House; yet the very object of this Upper House is to place a kind of check on the Lower House.

Chairman: You consider that these nominated persons should be nominated partly to represent minorities. That is so, is not it?

Mr. Cowasjee: Yes, My Lord.

Chairman: Sir Oscar de Glanville, I think, expressed the view that he did not press so much for separate electorates for the Lower House provided there was proper opportunity for nomination for the Upper House.

Sir O. de Glanville: No, My Lord, if you will excuse me. In any circumstances we want separate electorates for the Lower House. I was not pressing for any particular representation in the Upper House; I said the minorities were bound to get one or two if the Lower House elects on this principle of the single transferable vote, and they will probably get one or two from the Governor's nominations.

Chairman: You would feel satisfied with that? I see.

Mr. Cowasjee: According to our present system, we have no separate electorates for election to the Council of State and the Legislative Assembly; the members are elected by the general electorate. If, therefore, we adopt the same principle in regard to the Upper House we shall be doing away with special electorates; but the minority communities have to be protected, and I submit the only means of protecting the minority communities would be, so far as the Upper House is concerned, to give the Governor the power to nominate a certain number of persons, with certain specified directions to him as to what he is to do. I do not appreciate the idea that the power of nomination should be extended beyond the Governor himself. The Governor, in making his nominations, should be guided solely by one consideration, namely, the special interests which are not represented in the Upper House and the interests of the minority communities.

I contend that the qualification for candidates for the Upper House, and also for the electors, should be as high as possible. It has been said that the qualification ought to be a revenue up to Rs. 1,000 minimum, and income-tax to Rs. 12,000 per annum, I think we might conveniently increase both these figures, because, after all, the essence of the Upper House is that we require in it persons of position in life who have a stake in the country.

Then as regards the Lower House, we have special electorates, and I would insist that this special electorate should be continued. The present position of the Lower House is this. The total number of members is 103. If we eliminate the nominated officials and the non-officials and the nominated persons in the Council, and also the Executive members, it leaves 60 Burmese members, and 20, the total number of Minority members. In the Minority group you have the Indian, the Karen, the Anglo-Indian and the European. So the present strength of the Burma Legislative Council is really 60 on the one side, and 20, the total number of the nominated members, on the other—in other words, one-third and two-thirds.

Chairman: I do not want to stop you at all. We have been rather closely discussing the Second Chamber, or the Upper House, and only the Lower or elected Chamber in order to bring out points as regards the Second Chamber. That really was our next subject—the size and composition of the Lower House. But if you wish to illustrate by it your views on the Upper Chamber, by all means go on.

Mr. Cowasjee: I do not wish to pursue this branch at all. I only mentioned it because it has already been discussed by some of the members.

Chairman: Yes, in relation to the Upper Chamber.

Mr. Cowasjee: That, My Lord, is shortly, our position. If the nomination is to be taken away from the Governor, then I ask that my community, at all events, should have a special electorate for the

purpose of electing members in the Upper House. As to what our strength ought to be, that is not a matter which can be disposed of in a few words, and I will reserve my observations on that aspect of the case till the proper time.

Chairman : Are you going to give us your view on the length of tenure of the members of the Upper House?

Mr. Cowasjee : Upper House, seven years.

Mr. Campagnac : My Lord, I am in agreement with the opinions which have been expressed, that it is desirable that we should have an Upper House. At the same time, I think that the numbers in that House should be as small as possible, and I do not think that we should enlarge the Lower House to any great extent. I think that we should all bear in mind that in the interests of economy, in order that we may have money which we so badly need to develop the country, the cost of administration should be kept as low as possible. I think that experience has shown that, when you have a large House, it generally does not do as much solid and constructive work as a smaller body. I would also ask the Burmese members to try and evolve a constitution which would have safeguards in the constitution itself. We are all anxious that Burma should be given Dominion Status, but our only hope of getting Dominion Status is to have safeguards in the constitution and to have checks on any rash legislation, and in that way let the British Government realise that there will be no danger whatever in transferring responsibility to us.

In my opening remarks at the Plenary Session, I asked my Burmese friends to let me know, if they could, how it was possible for minority communities to get representation, except by separate electorates. Up to now none of them have suggested any alternative scheme. Under the circumstances, I agree with the views expressed by my honourable and learned friend, Sir Oscar de Glanville, that we must have separate electorates, so far as the Lower House is concerned.

U Ba Pe : Mr. Chairman, all the speakers now appear to be talking of the Lower House. It is the Upper House we are discussing.

Chairman : I said, we should not go more into the composition of the Lower House than was necessary to illustrate the views on the Upper House.

Mr. Campagnac : I understood my honourable friend, U Ba Pe, to say that he found it difficult to suggest what the composition of the Upper House should be until he had heard the views suggested by minorities communities. It is impossible for me to please all sections of the House. I think I am now pleasing the section of the House on the right of my honourable friend, U Ba Pe. I am sorry I cannot please everyone. So far as the Upper House is concerned, I think the numbers should be in the neighbourhood of about 30. As to the composition of the Upper House, I think a certain number of members in the Upper House should be elected, as has been suggested, by a District Council, and by bodies such as the Corporation of Rangoon. Some of the Members might also be elected by the indirect vote by members of the Legislative Council. As to minority communities, I think they could get representation by nomination. I am not so sure that it would be as well to insist that that nomination should be made by the Governor alone. I think it would be much better, for the

sake of the Governor himself, that the nomination should be by the Governor acting with his Ministers. In that way the Governor would not be criticised by outsiders, who might say he had packed the Upper House with his own particular people, who would always support the Government view. I think the Governor and his Ministers should be directed that they must give representation in the Upper House to communities and to important bodies who had failed to get representation by the indirect method of election by members of the Lower House or by District Councils and the Corporation of Rangoon.

As to the qualification, while admitting that the qualification should be high, I cannot agree with my honourable and learned friend, Mr. Cowasjee, that you should have land revenue qualifications. He was not satisfied that the qualifications should be a person paying land revenue of Rs. 1,000 a year and income tax on Rs. 5,000. Well, there are very few of the indigenous members of the country who are paying land revenue of Rs. 1,000 a year. I am afraid there would be very few people qualified if you had a land revenue qualification of over Rs. 1,000 a year. But I think the qualification should not be solely a property qualification. It should be an educational qualification, and also a qualification of people who had held responsible posts, such as people who had been Chairmen of District Councils, or people who had been Presidents of the Corporation of Rangoon. I would not confine it to a property qualification.

Lord Lothian : In composing the Upper House does Sir Oscar de Glanville propose that the members should have a longer period of office than the members of the Lower House—that is to say, that they should be nominated for seven years or twelve years, as the case may be, and at different periods, say every two or three years—or does he propose that the elections or nominations for the Upper House should take place at the same time as the elections for the Lower? There are two quite different principles underlying the two methods. One is that the Upper House should represent the principle of continuity. It contains people who represent various interests and have had great experience. They are there for a long time, they have not to think of the next election, and they represent the continuity of political tradition. The other principle is that the Upper House should be elected at the same time as the Lower. The objection to that is that the elections to the Upper House immediately become involved with all sorts of party controversies. I wondered whether Sir Oscar de Glanville had any definite view on the subject.

Sir O. de Glanville : Yes, I have definite views. I quite agree that the life of the Upper House should be of much longer duration than that of the Lower. But it is inevitable, when we start our Constitution, that the elections to the Lower House should be simultaneous, or practically so, with those to the Upper. But, thereafter, I do hope that we will not have the whole of the members elected by the Council at the same time. One method of getting over the difficulty is, for the elected members and the nominated members to retire in rotation, say, after three years, or whatever time may be fixed, so that, supposing we had fifteen members elected to the Upper House, at the end of every three years five of them could retire and be re-elected, or new blood could be brought in from the Lower House. Some principle of that kind would get over the difficulty. We do want continuity

in the Upper House, and we can only attain it by extending the life of the Upper House for considerably longer than the life of the Lower. Of course, when the Lower House is dissolved through a political crisis, the Upper House would still continue for its allotted time. The exact number of members who should retire would be a matter for discussion. But I think we ought to have some system such as that, because it is essential that we should have the continuity which has been suggested.

Tharrawaddy U Pu: Before I proceed to join in the discussion, I want to repeat the strong protest which I have made against the acceptance of the principle of separation. I hope that I shall not be misunderstood, if I take part in the present discussion, or that it will be thought that I have gone back upon my protest.

Chairman: Not at all; we accept your position.

Tharrawaddy U Pu: According to the Agenda there are four items with regard to the question of a Second Chamber, and the first is the desirability of a Second Chamber. We were asked to discuss the Constitution on the footing that Burma will be a separate country, and we joined in this discussion—"we" refers to my friends here also, I think—on the assumption that the Government would accede to our demand, agreed to by my friends of the minority parties, that we should have full responsible government. On the assumption that we are going to be given full responsible government by His Majesty's Government, I, for one, agree we must have a Second Chamber, which is also to be found in Canada and the other Dominions.

The second point is the powers of that Second Chamber. I submit that the Second Chamber—call it what you may—should have no final say, either in the matter of ordinary legislation or in the matter of finance; the Lower House must have the final say in all these matters. You may have the Second Chamber to act as a check, on the same lines as you have in Ireland or in other Dominions.

The next point is the size of the Chamber. With regard to the size of the Chamber, I think there should not be more than one-fifth of the number of members in the Lower Chamber; for instance, if you have 200 members in the Lower Chamber you should not have more than 40 members in the Upper Chamber.

The fourth point is the composition of the Chamber. With regard to that, I suggest that the election must be direct and that there must be no nomination. We have already, electoral rolls duly prepared for the election of members of the Indian Legislative Assembly and the Council of State; we should not have to make new rolls for the purpose of electing members to this Second Chamber, which would be a new one for Burma. Those electoral rolls would serve as the electoral rolls for the Second Chamber. For instance, for the Council of State you require a very high qualification, and that ought to be sufficient for the purpose of membership of this Second Chamber. There is no doubt that the qualification prescribed for membership of the Council of State is too high, but I should prefer that qualification to having any nomination at all for the Upper House. The Minorities would not suffer if there was no nomination to the Upper Chamber. I agree with my friend Sir Oscar de Glanville when he says that, by means of the single transferable vote, the Minorities also would have seats

in the Upper Chamber—they are quite sure of having seats there. The single transferable vote is the method of election by the Lower House.

Now, for the qualification they say land revenue Rs. 1,000 and income-tax 12,000. My Lord, Burmans in Burma, in their own house, are getting poorer day by day. It will be very hard for you to find even a mere handful of Burmans who would fit in with this qualification. The qualification is too high. In our country we are getting poorer day by day, while the foreigners—I mean my friends the Indians and my friends the Britishers: they are our friends all the same—are getting richer.

Sir O. de Glanville : No.

Tharrawaddy U Pu : Yes, with great emphasis. With great respect to the Chairman and to the British Delegates there who are sitting on your right and left, I venture to emphasise this "yes." I wish you would come there and see. If you want to visit Burma, do not see the persons introduced to you by the Government officials only. Please see the persons introduced by men like my humble self. We will introduce you to the real state of Burma. We will not ask you to see a Bioscope show, getting the rich men there, and telling them: "If this gentleman asks you this, you answer that." We will let you know the real Burmans, and the real state of affairs will be made known to you. Please do not believe that Burmans are getting richer day by day, as was suggested the other day by my great friend Mr. Cowasjee. Far from it. The Burman Delegates, are they rich, with the exception of one or two? I will tell you, My Lord, that we are not rich men at all in the sense in which you use the word rich.

If I understood my friend aright, I think he said that the Upper House should be allowed to initiate Money Bills. Did you say that?

Sir O. de Glanville : No.

Tharrawaddy U Pu : Thank you very much; but you say if the budget is rejected by the Lower House the Government must be at liberty to present that budget to the Upper House and get it passed. Is that so?

Sir O. de Glanville : Not quite.

Tharrawaddy U Pu : I look upon this point as very important. May I have it explained.

Sir O. de Glanville : My suggestion was that, in the event of any demand being refused by the Lower House, as an alternative to the Governor using his reserve powers, or as an intermediate step to avoid the exercise of them, it might be advisable to refer the particular demand refused to the Upper House.

Tharrawaddy U Pu : And get it passed?

Sir O. de Glanville : And get it passed; and on that the Governor would act.

Tharrawaddy U Pu : I am not too far wrong—not the whole budget, one particular item of the budget. If the Excise Department, which was brought in just now, was rejected by the Burma Legislative Council after the advent of the new reformed Burma—if I make such a big demand for a Department like Excise, which is rejected by the

Lower House, the Governor must be at liberty to present it to the Upper House and get that particular item, which has been rejected by the Lower House, passed. That is what you said.

Sir O. de Glanville: Yes.

Tharrawaddy U Pu: My Lord, finance is the most important question in any Government. Now my friend suggests clearly, that the Upper House should have the final say in matters of finance under the circumstances which he had stated. I do not think it is necessary for me to quote to Your Lordship and the other British Delegates authorities written on the Irish Free State, Canada or Australia, and so forth. You, yourselves, are authorities. You are educated and are experienced men. I take it that you are more experienced than some authors of books to which reference might be made. You know what is an Upper House and you know what is a Second House. I have a number of books here; let me not unfold them. You know well what should be the power of an Upper House.

Now, you have the House of Lords here. Have the House of Lords power to say the last word in matters of finance? Have the Upper Houses of the Dominions such power—a power to have the last word in matters like finance? I do not think poor men like me have ever seen a clause in any law book, in any authority, in any book written by anybody, giving authority to the Upper House to have the last word in matters of finance. My Lord, it is news to me when a claim of such importance is suggested by our great and honourable knight, my friend Sir Oscar, that we should give powers to the Upper Chamber which is to be composed of something like 30 members, 15 of whom are nominated, and nominated, not by the Governor-in-Council, but by the Governor himself, and himself alone. This is the first time I have ever heard such a suggestion coming from such an authority as Sir Oscar, who knows Burma very well, as much, if not more, than any Burman. He has been in Burma for a long time; he has not seen his country for a long time. He has been in Burma; he knows the Burmans and he knows what is being done in Burma and what has been done in Burma. My Lord, I have been in the Burma Legislative Council for the last 6 years. I know what has been done by the Governors there, and I know what they have done when allowed to do what they like. His suggestion was for the Governor alone to nominate. Well, My Lord, I do not say more than this, that I have never come across such a bad suggestion, if I may be permitted to call it so, with all respect to my friend. He was our President in the Council; we have every respect for him, but in this matter I disagree with him entirely. There is no country in the world where the Upper House is empowered to have the last say in matters of finance.

Sir O. de Glanville: Might I ask a question of my honourable friend. What would he propose in the event of the Lower House refusing a grant which was necessary for carrying on the government of the country?

Tharrawaddy U Pu: Very well, perhaps Sir Oscar will go to the House of Commons and sit there for about a week when the Budget is under discussion. Let him go there and study the powers of the House of Lords. Or, let us go to Ireland together, and I will show

him the powers of the Upper House. If the Lower House rejects, then of course the Government must be stopped for the time being, and you must find out some other ways. What steps are taken here in the House of Lords and the House of Commons in such a case? Of course there must be cases like that. Of course we must adopt the same procedure as is adopted in Ireland, Canada or Australia. That is what we want. We want responsible government; we want government responsible to the people. We do not want to see a type of government where the people are responsible to the Governor and not the Governor to the people.

We want a responsible government. We have told you, My Lord, plainly, that it is on the assumption that we are to have full responsible government that we are entering into the discussion of this constitution. If the Lower House rejects the supplies, the government must stop for the time being. Our country must be ruled by ourselves, not by a Governor sent from here. We want government of the people, by the people, for the people, not government of the Governor, by the Governor, for the Governor.

The Upper Chamber should be composed of elected members alone. As regards qualifications, I do not think this is the time or place to enter into these minor details. On the questions which are put to us, the desirability of a Second Chamber—yes; the powers of the Second Chamber—it should have none. I have said it must have none. We want only elected members, in the Second Chamber, not nominated members at all. When the minorities can be sure of getting their representation in the Lower House, there is no necessity for them to approach the Governor and be given some more seats in the Upper. As a rule, minorities are in the good books of the Governor—you have to remember that, My Lord. I say that we do not want any of this “ nomination business ” for Burma. I have already told you that the minorities are quite safe in Burmese hands. I feel this from the bottom of my heart. I would be the last man in Burma to do harm to the minorities. I agree that the minorities must have their seats in the Legislature. Somehow or other they must have representation, and adequate representation, but with regard to other things, these will come. I submit that the minority interests are quite safe in our hands. As I have told you before, in Burma, today, we are being ruled by the minorities. The minorities co-operate with the Governor there and go against the majority. In the Legislative Council for the last six years we have been governed by the votes of the minorities added to the votes of the nominated members and the official bloc. The minorities, nominated members, and official bloc, these three combine together to flout public opinion as expressed in the Legislative Council through the representative members. There we are in a majority amongst the elected members, yet we are defeated by the Government with the aid of the minority votes, with the aid of the votes of the nominated members, and with the aid of the votes of the official members. Therefore, My Lord, I appeal to you to avoid having any nominations or any official bloc in Burma.

Mr. Haji: In addition to the remarks that have been made by some of the previous speakers, I should like to say that where provision for the representation of minorities or of vested interests, either

Burmese or of minorities, is to be made, I would much rather that these places were filled by election by the organisations concerned, than by nomination. For example, if it was intended to bring in landholders, whether Indian, European or Burman, into the Upper Chamber, I should prefer the landholders' representatives to be elected by their organisations. I would apply the same principle to the interests of commerce, Indian, European and Burmese. If it was felt that these interests remained otherwise unrepresented, I should prefer that instead of nominations by the Governor, these bodies should have a right to select their representatives for the Upper House by direct election.

With regard to the number of members of the Upper House, I am inclined to regard the figure of 30 as rather inadequate, because, when we come to deal with the Lower House, I feel that most probably we shall have arguments in favour of a much bigger Lower House than we have to-day in Burma. Without committing myself to any figure, I should like to say that the Upper House should be not less than one-third of the size of the Lower, and perhaps a little larger, though I am not prepared to go to the length of having the Upper House, as I think one speaker suggested at the beginning of this discussion, half the size of the Lower House.

With regard to the tenure of office of members of the Upper House, I think two or three years more than is provided for the Lower House would suffice. If you give the Lower House three years, the Upper House might have five; if you give the Lower House five years—which I think will be more suitable—the Upper House might have seven. I am opposed to the Upper House having a very long period of ten to fifteen years; that would not do at all.

These are a few of the remarks in a general sort of way that I would make at this stage in this connection.

Mr. Loo-Nee: My Lord, I shall be touching the four items of Head 1 very briefly. Regarding the desirability of a Second Chamber, we agree that a Second Chamber will be necessary; and as regards the power of this Chamber, it should act as a revising body, considering afresh the decisions arrived at in the Lower House. As to the size of this Chamber, in order that it may not be unwieldy, the proper size, we submit, would be about a third of the Lower House. What we are concerned with primarily, is the composition of this Chamber, and the contribution that I shall make this afternoon will be nominal, and so I shall take just a little time on this head to make our position clear. Other speakers who have preceded me, those who are speaking for the Minorities, I submit, are different from the Karens, in that the Karens are the sons of Burma as much as the Burmese people are. Your Lordship will remember, and this Conference, I believe, has not forgotten, that in stating the Karen case at the first meeting here, we summed up our position in terms like the following—that in any constitution framed for Burma the Karens should have their rightful place and share in that constitution. We submit, therefore, that in the composition of this Chamber, the Karens should have their rightful place and share in the Chamber as well. The details are not worked out now, and this is probably not the time to enter into details; but stating our case broadly, we submit that there should be a provision in the Constitution for Burma, recognising the claims of the Karens and allowing them to have their rightful share.

Regarding the qualifications for this Second Chamber, we submit that they should not be placed too high, because, as we have already submitted to the Simon Commission, the Karens are a people who are peculiar; they are not very rich and they are not very poor. We have no beggars among the Karens and we have no millionaires among the Karens, so that if the qualifications are set very high, it may turn out to be a hardship for our people; but any fair qualification made will, I think, be suitable for the Karens.

These, broadly, are the views we contribute to the discussion on this Agenda.

Chairman: Well, Gentlemen, I think we have heard a pretty full expression of views from members of the Conference on the Second Chamber, and I understand nobody else wishes to pursue the subject at present. In the Report that I shall present to the Conference, I shall, of course, try to give full weight to the different views that have been expressed. Perhaps we might now adjourn till to-morrow, and then deal with the question of the Lower House, the representation of Minorities, nominations, franchise, relations between the two Houses, and so on, if that suits the Conference.

Dr. Thein Maung: My Lord, we have not finished item 2 yet. There were only casual observations made. No detailed observations were made on item 2. If we have to make our detailed observations on that, I think we should like to submit further observations.

Chairman: Do you want to say something now?

Dr. Thein Maung: To-morrow will be much better.

(*The Committee adjourned at 4-10 p.m.*)

Proceedings of the Second Meeting of the Committee of the Whole Conference, held on Tuesday, the 8th December 1931, at 11 a.m.

HEADS 1 AND 2.

1. THE QUESTION OF A SECOND CHAMBER.

2. METHOD OF ELECTION TO A SECOND CHAMBER AND QUALIFICATIONS OF ELECTORS AND CANDIDATES—continued.

Chairman: I think we were in the middle of a discussion about the Second Chamber, and some of the Delegates said they would prefer to go a little more into detail, and therefore I think we had better continue the discussion, having regard mainly to the points which have been already raised.

Dr. Thein Maung: My Lord, we have discussed the matter among ourselves and have come to a definite decision on most points. One of us will read a statement on our behalf now.

U Tun Aung Gya: My Lord, on December 2nd, eleven out of the twelve Delegates representing majority interests signed a united statement in which a constitution on the lines of the Irish Free State

was demanded. A general discussion followed during which the minorities expressed views generally supporting our main demand but asked for special protection. When we came into Committee yesterday we were under the impression that opportunity would be forthcoming to discuss with the minorities on points where they differed from us and reach agreement, not merely by making formal statements of views but by actual discussion of the details to find an agreement. For this purpose the Committee of the whole Conference was too large to enable the Members of the Conference to develop this method of agreement by discussion. We therefore asked for a sub-committee. You, My Lord, did not accept our suggestion but asked us to state our views according to the Agenda. When various speakers had dealt with certain aspects of items 1 and 2 in a very general way, Your Lordship announced that you had heard a certain variety and difference of opinion, and would try and draw up a report on each subject. This ruling took us by surprise. . . .

Chairman: I do not think that is quite correct. I did not rule that. I was waiting for other people to speak; and I thought that if no more wished to contribute, then I would do my best to draw up a Report. I did not want to rule anybody out. I am quite ready to hear more views.

U Tun Aung Gyaw: . . . for we did not realise that an exhaustive exposition of the case was required at that point. We had hoped, moreover, that by discussion we might have met questions raised, examined various proposals and come to some definite agreements. To clarify our position, we put in, to-day, the present united statement, which is signed by the entire twelve of the delegates representing majority interests. Our views on each item of the Agenda are shortly given below, so that there can be no misconception.

Item 1.

(1) We desire a Second Chamber on the express understanding that Burma will have responsible self-government with Dominion rights.

(2) The powers of the Upper House should be the same as those of the Senate and the Irish Free State Constitution.

(3) The strength of the Upper House should be 60 or one-third of the size of the Lower House.

(4) The composition of the Upper House should be :

(a) 50 per cent. by direct election,

(b) 25 per cent. by indirect election by the Lower House, as in the Irish Free State, and

(c) 25 per cent. by nomination by the Cabinet.

Item 2.

(1) The method of election to the Upper House should be as indicated in 1 (4) above, secret ballot should be adopted for direct as well as indirect election.

(2) The life of the Upper House should be 7 years. Retirement by rotation may be required in the case of those nominated and indirectly elected.

(3) Tenure of Members. As (2) above.

(4) and (5) the qualifications of electors and candidates should be the same as those for the Indian Legislative Assembly.

(6) Age should be 35.

(7) Casual vacancies should be filled up in the manner in which they were nominated or elected.

We have heard the views of the minorities. We are not aware how we may meet them unless by discussion in a sub-committee. Only in this way can the largest measure of agreement be reached, which is the objective of this Conference. We attach much importance to this and request Your Lordship to permit us a sub-committee on the matter of minorities.

(Signed by Miss May Oung, U Maung Gyee, Mr. M. M. Ohn Ghine, U Ba Si, Dr. Thein Maung, U Ba Pe, U Ni, Tharrawaddy U Pu, U Chit Hlaing, U Tun Aung Gyaw, U Su, Tharrawaddy U Maung Maung.)

Chairman: I am not quite sure what exactly the request is. You are asking that there should be a sub-committee to investigate the question of minorities. What does that exactly mean? Before I can consider it, I want to know what you mean by that proposal, because it is quite obvious that the question of minorities may thread through the whole subject. It involves the question of representation in both Chambers, of separate representation, and a number of things. What is your proposal, and what exactly, if a committee of that sort were set up, would the Conference do while it was waiting for the sub-committee to report?

Mr. Ohn Ghine: We felt that when we were discussing this question of the Legislature yesterday, the representatives of the minorities could not go as far as we did because they had certain things at the back of their minds. For example, Sir Oscar de Glanville in the general discussion raised hopes that he might possibly agree with us with regard to the Legislature, but yesterday his views rather disappointed us. It is possible that he may have certain ideas regarding the position of minorities of which we are not aware, and, based on those ideas, he stated the views he did yesterday. I think, unless we know definitely what the views of the minorities are, what they really want to safeguard their interests, it is impossible for us to say how we are going to meet their requirements, and our idea is that in a sub-committee there would be more exchange of ideas and more possibility of agreement in regard to the settlement of the minority question. Unless we have a preliminary discussion in a sub-committee, it is impossible for us to say how far we can meet them in regard to the various points.

Chairman: But you have not answered the question that I put. This question of minorities is a big question and may take a lot of time. It would hold up the discussion on a great many things if we had to wait. What do you propose that the Committee of the Whole Conference should do meantime, and what is your idea of the sub-committee?

Mr. Ohn Ghine: Sub-committees are not unusual, My Lord, and while sub-committees meet it has been the practice for the whole assembly to wait.

Chairman: The practice, where?

Mr. Ohn Ghine : In the Indian Round Table Conference.

Chairman : Yes, having been on both, I think I can speak with more authority than anybody on that subject. I have already said that the Conference was so large, consisting of 90 to 100 persons, that the discussions became like those of a small Parliament. I thought the great advantage of having a smaller Conference of this kind was that we were a Committee. We are no bigger than the sub-committees of the Indian Conference, that is to say, 30 or 40 people, and I had hoped that we might be able, around the table here, to discuss all these matters perfectly freely, and avoid what was a distinct blot on the Indian Conference, the necessity which we felt, owing to its size, of appointing a number of sub-committees. What is your idea of the size of the sub-committee you propose?

Mr. Ohn Ghine : Certainly not more than 15.

Chairman : Then I think you will find that those who are excluded from the Committee will be a little impatient.

Mr. Ohn Ghine : I have made a few enquiries, and I think it is possible to secure a small sub-committee of that size, and I think it would be possible to have cross-table talk, with a view to arriving at a better understanding than we have at present.

Lord Winterton : I would like to get a little more extended elucidation of this matter. I do not quite understand what the function of the sub-committee is proposed to be. I have an open mind on the subject, for a moment, in regard to the formation of a sub-committee, but I would like further elucidation on the point as to what the sub-committee is going to do. Is it to deal with the question of the numerical representation of minorities? If so, I should have thought that that might be discussed quite well in this full Committee of the Conference. Perhaps someone would answer that point.

U Ba Pe : It is assumed that there are minorities in Burma. As a matter of fact, we of the majority representation contest that assumption. We want to know what constitutes a minority in the first place. In the second place, if there is a real minority, what is the best method of protecting their interests, not necessarily by communal representation? There may be other methods by which their interests can be safeguarded. Then there are the questions of whether it is to be communal representation or whether it should be by joint electorate or special electorate, and so on. There are many details to be considered before we can definitely say which is the best method. Again, are we going to allow communal representation to non-settlers in Burma? If so, in what way? There are many non-settlers in Burma forming various groups of communities, like the Jews, and so on. There is another question: if we allow communal representation to one small community, why should we exclude other communities? Why should we make discrimination against others? We have been talking about not having any discrimination against anybody, but if you allow communal representation to one or two groups only, the others will not feel happy at all. So all these questions will have to be carefully considered before we can think of what kind of representation each community or minority can expect or can claim.

For these reasons I think we must have a sub-committee. It is not possible to discuss these matters in a large meeting like this at all.

Lord Winterton: I am bound to say that I am quite unconvinced by that argument. It will amount to this. There will be appointed a sub-committee of 15 people, who will suggest a plan. That plan will be brought up in the full Committee, and then the whole matter will be discussed over again. As a means for delaying the proceedings, I cannot imagine any better method than that of appointing such a sub-committee as is proposed. If I thought it was going to satisfy anybody's opinions, I might take a different view, but it will not do that, because all the other Members of the Conference will want to speak. This is, in itself, quite a small committee, and I would, with respect, deprecate following too closely the analogy of the Indian Round Table Conference. I would really suggest that, if you were to allow a considerable latitude on these particular matters which have been raised, and allow discussion across the table, as one Delegate put it, it would really satisfy the claims of minorities. I am quite convinced of what will happen if we have a sub-committee. It will probably take a long time to come to a decision, it will not be a unanimous decision, and the whole discussion will take place again in the full Committee.

I do not hold the view that the case of the minorities is only to be regarded by the minorities themselves; obviously, the majority community have something to say on the matter. I think it will be extremely hard to select a sub-committee of 15 members from the Conference which will adequately deal with the question, and I think a more extended discussion in this Committee will be a better way of dealing with it. I put these views forward without in any way desiring to be dogmatic, but I really think this would be the best way of expediting business.

Sir O. de Glanville: May I say a few words on this matter? A sub-committee of 15 members has been suggested. That sub-committee will certainly have on it a certain number of the British Delegation, and that will reduce the number to be selected from the minority representatives and from the majority representatives. I feel quite sure that almost everyone representing the minorities on this side will want to be on the sub-committee, and everyone who is excluded will feel aggrieved, and the result will be, as happened in the case of the Indian Conference, that we shall have everyone on and we shall be back where we were before.

Mr. Olu Ghine: I said that I made a few enquiries yesterday, and I found it might be possible to arrange for a small sub-committee of 15 members. I started with the Karen Delegates, and I understood they would agree to have only one member on this sub-committee. I also consulted two of the members of the Independent Party, and they told me they would have no objection to having only one representative on the sub-committee.

U Aung Thin: That suggestion was made to me, and my reply was, I would consult the leader of my Party.

Mr. Olu Ghine: I was given to understand that you had no objection personally.

U Aung Thin: I could not speak for my Party without consulting my Party leader.

Mr. Wardlaw-Milne: It is not really a question of having any objection; it is a question of procedure, as to whether it is advisable. I think we want to know something more than that certain members have no objection. Personally, I have a perfectly open mind about this; I am not opposed to a scheme of this kind if it could be proved it would help matters forward. As far as I can see, however, there is no reason why these matters should not be discussed quite freely here. I have not heard the suggestion that any member here is afraid or unwilling to discuss these matters, so that I cannot see how we shall benefit by dividing into and doing exactly the same work as we could do here.

U Ba Si: As you pointed out, My Lord, in the case of the Indian Round Table Conference, there were thirty or forty members on the sub-committee. My contention is, however, that in this case it is not a question of numbers; we are dealing with the minority question, and though their interests are many while ours are few, the nature of the question is the same. In a sub-committee, however, every member will feel more at home. The members may want negotiations and heart-to-heart talks. In the case of the Indian Round Table Conference, I understand they were even allowed to hold private and informal meetings for the solution of this problem. I think it is most desirable, therefore, that a sub-committee should be formed to consider this question.

Lord Winterton said, that when the decisions of the sub-committee are brought before the Conference again, the whole question would have to be reviewed, and therefore much more time would be occupied. I beg to differ from that view. On the sub-committee almost every minority would be represented, and out of the 12 of us here, only a few would be on the sub-committee, and whatever solution is arrived at, when it came before the Conference, there would hardly be anything to be said on the subject. I do not think it will lead to the position envisaged by Lord Winterton, because the 12 of us here will be prepared to agree on what our representatives accept. Whatever has been discussed and sought, I think will be agreed to by the rest. There may be a few observations to be made, but they will be very few. I think it is desirable; it will shorten the time and will make the question easy.

Lord Lothian: May I make a suggestion, again following the precedent of the Indian Round Table Conference, whose activities I do not think ought to be treated as quite nugatory. It seems to me quite clear that, on a question like the minorities, the most important thing is that every minority and the majority parties should state their views and state their views in the presence of everybody. If at the end of that time, it seems to be appropriate that a smaller body should be created to do some private negotiations, well and good; but I think it would stultify the very purpose of the Conference if, having got here round a table, the statements of the views of minorities and majorities are not made for the Conference to consider. I would suggest very earnestly that you should adopt that course, and, having left the whole matter open, then consider whether it would be appropriate to work by a small Committee to hear both views.

Tharrawaddy U Pu : And hear both parties here?

Lord Lothian : Yes.

Chairman : May I say I hope we shall follow that course. I think the analogy of the minorities in the Indian Round Table Conference is rather an unfortunate one; because you are asking us to set up a committee to settle these things. The Indian Round Table Conference did that, but they did not settle anything. Therefore I think your precedent is not a very good one. I say that by the way; I do not want to lay stress on that.

I want to say another thing too. I think we are here for another purpose also. The suggestion was, that it would be more easy in smaller matters for discussions and negotiations to go on with a smaller body; but I do wish to remind you that we are here for even a bigger purpose than that. We want the public both in this country and in Burma to know what we are discussing. I do not want to force my view; but I want to be perfectly frank. My view is, most strongly, that these things should be discussed openly and above board in public, so that they can be reported and known. I dislike the idea that we are to be so afraid of making statements on these public matters that we have got to get together in a small committee and have negotiations by ourselves. I do not think that is the best way of informing public opinion; and, though I do not want to press any view at all unduly, I wish to state here that I am in favour of the public discussion of these matters in order that everybody may know what is being said and done. Of course, I am not going to set myself rigidly against the setting up of a sub-committee if it is felt to be very important in order to settle details and so on; but I certainly do not wish that setting up of a sub-committee or sub-committees to defer or delay the work of the general Conference. If a sub-committee or sub-committees are set up, I think they ought certainly not to interfere with the work of the Conference, and should begin at 4-30 or 5 o'clock and continue, as long as Delegates like, in the evening. Otherwise, if we have to wait, it will be an absolutely interminable matter.

What I was going to suggest this morning was this : I wish those gentlemen who make this proposal, would put on paper, and confer with me later, as to the precise proposal that they want; because the minorities question is far too general a question on which to set up a committee. You will have to limit it; because, as I say, it may range out into all the problems with which we have to deal. I am not ruling this out at all; but I think for the present it would be a very useful thing if this morning we could continue the general discussions; then perhaps concentrate on certain points. Then, if there are certain points on which we see differences of opinion, it may be advisable to have a small sub-committee thereon. I do not rule that out, but I think we shall see our way better when we get a little further.

U Maung Gye : I am rather surprised to hear from the Chairman that the primary object of this Conference is to educate public opinion.

Chairman : I did not say the primary object; I said one of the objects.

U Maung Gye : I thought the main object we should have in view was to reach the greatest measure of agreement amongst ourselves in regard to the future constitution for Burma. I have listened to the

debate; no attempt has been made on either side to reach an agreement on any important matter. Each side has stated its own views, and there has been no negotiation of any kind. I suspect that this is due to the fact that the Conference is too big, and the members do not feel free to exchange views and discuss matters in the spirit of give and take. I think a smaller body would facilitate an intimate exchange of views, and therefore I support the proposal that a small sub-committee should be formed to go into the question of minorities and its implications.

Chairman: Could you tell us exactly what your view would be as to the duties and limitations of this sub-committee? The question of minorities is a very general one. One of the Delegates, indeed, told us there were no minorities, and the first question therefore would be what the minorities were. Would that apply to questions of protection and representation of minorities? It is a far-reaching subject.

U Maung Gye: The question of representation in the Legislature will be one of the matters which will have to be threshed out in the proposed sub-committee, and, again, as to how their interests should be safeguarded.

Chairman: Otherwise than by representation?

U Maung Gye: Yes. As the British Commercial community might ask for their vested interests to be protected in a particular way, we should have to take that into account; but at present we have only a general idea of their requirements. We should like to be told exactly what they want, and then consider how far we can go to meet them.

Mr. Cowasjee: Do you recognise our minority communities and that they must be protected?

U Maung Gye: If they need protection I want them to be protected.

Mr. Cowasjee: But do you admit that they require some sort of protection?

Major Graham Pole: Might I suggest that, without setting up a sub-committee of this kind, there is no reason why the Burman Delegates should not meet, informally, the minorities Delegates and try to arrive at some conclusion with them. They might meet informally in the evenings or at some other time, and they would probably arrive at some measure of agreement. Personally, I think that a sub-committee of 15 out of a body of this size is hopeless; a committee of five would be better. A committee of 15 would do an interminable amount of talking. But if one or two of the Burman Delegates would meet some of the Minority Delegates, perhaps this evening, and some others to-morrow evening, a considerable amount of agreement might be reached. But I think it would be a pity to stop the whole work of the Conference to set up such a very large sub-committee as has been proposed.

U Maung Gye: I have made several attempts to get into touch with the minority groups; in fact, I have been engaged in informal talks with some representatives of the minority groups, but we have not reached any result. If there is any objection to a large sub-com-

mittee we might cut down the number. So far as the twelve of us are concerned, we do not need more than two or three members to represent us.

Lord Winterton: I wish to support most strongly the suggestion made by Major Graham Pole, which I think is much the best way to deal with it. Surely, if I may say so, the answer to what U Maung Gyee has just said is this. If it be indeed the fact that the minorities cannot agree among themselves, there is no use in setting up a committee; they are no more likely to agree in committee than they are in informal conversations. I should have thought myself that Major Graham Pole's suggestion made, so to speak, the best of both worlds; it enables them to meet partly in a formal, and partly in an informal manner; but to set up a regular formal sub-committee of fifteen would be open to the gravest objection. I hope, therefore, that those who have expressed themselves in favour of the appointment of a sub-committee will either adopt Major Graham Pole's suggestion, or abandon the idea altogether.

Mr. Harper: May I say that Mr. Howison and I are prepared and would be very glad, to meet any Delegates in private conversation at any time.

Chairman: I do not know whether that has modified the views already expressed. What I should like to suggest would be this. Of course, I am in the hands of the Conference. May I go back for a moment to the Indian Conference analogy. There, no doubt, as you have said, a sub-committee was set up, or two or three sub-committees were set up; but we had the general discussion first. We did hear the views frankly and freely expressed by the delegates on these subjects, and that was of great advantage, and enabled us, probably to some extent, to limit either the reference or the duties of the sub-committee. Now, a suggestion has been made that the method of what I call informal conference, should be proceeded with. What I was going to suggest was this, that that method, which I am bound to say I think is the most fruitful for arriving at agreement, might be first tried. If it fails, I do not, of course, at all exclude the idea of having a sub-committee, if that is the general wish, although I think it is a little doubtful, as some other speakers have said, whether we could arrive at agreement upon it. But shall we take that method first, and meanwhile have this general discussion, which will enlighten us all—I will not say the public, if you object to the public being informed—as to the general views of minorities, which is one of the next subjects with which we are going to deal. Under our headings we deal with minorities in the Lower House, and I think it would be a very great advantage to hear generally what has to be said. Does that meet with the views of the Conference?

U Ba Pe: We have various difficulties. I do not like to detail them, but one thing is plain. On this side of this Conference we are not in a position to make any further statement until we know the views of the other side. That is our position.

Chairman: Until you know the views of the other side, for instance, on what?

U Ba Pe: On the various questions we are going to discuss now, at every stage the minority question will come in. If you are going

to discuss the Lower House, when you come to representation, the minority question will come in again. At every stage the minority question will come again.

Chairman: That is exactly my point.

U Ba Pe: We want to be sure what difficulty we are dealing with. In principle, we do not admit any minority. Any community claiming to be a minority must have at least 20 per cent of the whole population. No minority in Burma has that proportion. I am speaking of principle. I do not say there will be no minorities, but the first point is that we cannot admit that there are minorities in accordance with the definition adopted by the League of Nations.

Chairman: Very well; I am going to make this suggestion if that is so. You take what I call the previous question, that there may not be any minorities at all, and that a minority has got to prove its right to existence, and you have got a certain test. Now, that is a very fruitful subject for discussion here.

U Ba Pe: Then we shall have to keep quiet until they have stated their case.

Chairman: We do not want you to keep quiet at all, but surely it would be very useful if you stated your views and they stated their views on minorities. We should then get to know where we are. It is no use setting up a committee if we do not admit there are minorities, and if we do not know what the minorities are. We can only settle that by discussion in this Committee.

I think there is one further objection to any committee of this kind. As I understand, the idea is to come to some measure of agreement in this suggested committee. Speaking for myself, and I fancy for a number of others here, I want to hear the case of the minorities. I do not want to be confronted with an agreement. I have a perfectly open mind about the minorities, but I want to know what their case is, and I am not sure I want to be confronted with any agreement come to between the minorities and the majority, even if the minorities are satisfied. I want to hear their case.

U Ba Pe: We are in the same position; we want to know what their case is.

Chairman: Would it not be better, before carrying the case further, to have the positions stated here, so that we may know what they are? Would not that be better?

U Ba Pe: Yes, they can talk and we will listen.

Chairman: I do not want to jump too much from one question to another. Could we first of all conclude the discussion on the Second Chamber and then deal with the Lower House, in which the full subject of minority representation would be relevant and would be part of the discussion?

I do not want to check the discussion at all, but while we are giving a little further consideration to this rather difficult question—for it is a difficult question—of a committee and informal discussions, could we not spend the remaining hour and a quarter this morning, as we are not going to meet this afternoon, in going into some of those particular problems which I think some of you gentlemen wanted to discuss, and getting a little closer to them. We were dealing with methods of election to the Second Chamber.

and I think some members said at the end of the discussion that they wanted to go a little more closely into such questions as the qualification of voters, the qualifications of candidates, methods of election and so on. I think it would be very useful to deal with that. I think, as a matter of fact, in that way we should be discussing already some of these minority questions; and no doubt the minorities would express their views on the subject. Anyhow, I want to carry on the discussion this morning, if the Delegates are ready to do so, without prejudice to any further questions.

U Ba Pe : We have put in our statement already.

Chairman : Yes, but you have not put in a statement dealing exactly with minorities.

U Ba Pe : No, because that question is to be dealt with separately.

Chairman : No. Therefore I am inviting you, if you would be good enough, to express your views on that question relevantly to the question now before us of the Second Chamber.

U Ba Pe : In our view there are no minorities in Burma. If anybody takes the view that there are, then they should claim it.

Chairman : Then perhaps the minorities will accept your challenge.

Mr. Cowasjee : My Lord, I submit they must pursue their argument to show that there are no minorities in Burma. We have a population of Indians; we have a population of Europeans. If they contend that we do not form minorities in Burma, I submit that is a proposition which my friend as a leader of the majority party has to establish.

Tharrawaddy U Pu : No, not a leader of the majority; that is a mistake. Do not think that; it is the People's Party.

Mr. Cowasjee : Very well, the People's Party. My Lord, you will probably remember that last night we were told that they wanted this matter further considered in detail. That is why we postponed the further discussion until this morning.

Chairman : Yes, that was so. I do not wish to say exactly on whom the onus lies. The minorities have had a challenge from that side which says that there are no minorities in Burma. I am very interested to know it. It is the first time that I have heard that statement. Therefore, if there are minorities in Burma I think it might very well be said it is up to them to state their position and their claim.

Mr. Cowasjee : My Lord, I would rely on the statement which has been already submitted, showing the population of Indians in Burma. That establishes that we have this large population of Indians in Burma. In the early stages of our Conference I had developed the position and the economic strength of the Indian community in Burma. I then pointed out to the Conference that so far as Banking business is concerned the Indian community contributes every year to the extent of 100 crores of rupees by way of loans to Burma. There is also the fact that Indians are largely interested in industry and in trade. These are facts within our knowledge. If my friend contends that, in spite of the fact that the Indian population numbering 1,000,000 people in Burma, and in spite also of the fact that they have large

vested commercial and other interests in the country, they do not constitute a minority to justify any protection, I submit it is for them to establish that proposition. At this stage I do not wish to develop my argument any further except to lay before this Conference these broad facts.

Chairman: I should be very glad if you would develop your argument further—I mean if it suits you to do so.

Mr. Cowasjee: I am afraid I should be at a considerable disadvantage because I do not know what is the contention of the other side.

Chairman: The broad contention is that there are no minorities in Burma. I think that is the point that you advanced, is it not, U Ba Pe?

Lord Winterton: My Lord, I am sorry to interpose a point of order, but I really would suggest we are getting rather wide of what we discussed yesterday. I would like to recall to the Conference what occurred yesterday. Yesterday we were discussing the Second Chamber, and certainly most of us thought that it was agreed that the discussion on the Second Chamber should come to an end to-day. Now we have not been doing that this morning. We have been discussing all sorts of other questions; now apparently it is suggested that we should have a discussion as to whether or not minorities exist. I suggest, with great respect, that if we could finish what we were discussing and as to which there is an honourable understanding that we should finish by lunch time to-day, we could then get on to these other matters.

Mr. Haji: Some little time back, Sir, you mentioned that the very existence of minorities in Burma had been challenged by U Ba Pe, and you said it was for the minorities to establish the fact of their existence. But it is surely not necessary for them to reply to such a challenge. What are the facts? It is said that there are no minorities, but in fact there are minorities all over the place in this Conference. It has, indeed, been a grievance on my right that there are more minorities represented than there should be. One member who said that he spoke on behalf of the Majority Party, denies that minorities exist, but the very existence of a Majority Party implies that there must be minorities. I beg of you not to press it upon the minorities on this side to prove that they exist, because the presence of their representatives here shows that they do.

U Ba Si: What U Ba Pe said was, that there were no minorities who would be eligible for protection. To be eligible for protection a minority must consist of at least 20 per cent. of the population.

Chairman: He was taking a rule which suited his own views.

Now, Gentlemen, can we, after that discussion, get back to our subject? It is perfectly true, as Lord Winterton has said, that there was a general agreement, which was accepted, that we should finish the discussion in a little more detail on the Second Chamber this morning. There is no question about that at all. When we began the proceedings there was this matter brought forward of setting up a sub-committee on the question of the minorities. I am bound to say—I am not complaining at all—that it would be extremely convenient

that, if Delegates want to break into the order of business which has been settled the day before, they would give the chairman some notice of what they are going to do, because if he is suddenly confronted with rather difficult questions of committees and so on, he is bound to examine them carefully, and it would be wrong of him if he gave a decision straight off. I should be much obliged, now that we have had this discussion, and we have raised ultimate questions, such as the existence or non-existence of minorities, if you would allow me a little time to consider those suggestions that have been made, so that I may, if necessary, confer with some of the Members here. Meantime I think we should spend this hour fruitfully in carrying on or concluding a general discussion on the question of the Second Chamber, as was agreed to be done yesterday. I hope that I can appeal to the Delegates to continue on those lines.

U Ba Pe : It is quite true that there was an agreement yesterday. We accordingly drew up the statement; and so far as we are concerned, we have finished. As regards the minorities question, before we start the next subject on the Agenda we thought it would help us a good deal if we had a sub-committee before going into the details following in the next Agenda. It has nothing to do with the Second Chamber. As far as the Second Chamber is concerned we have finished with that statement.

Mr. Howison : With regard to the powers of the Upper House, My Lord, I think it should have equal powers with the Lower House in every respect except demands for grants, voting or withholding supplies. That question has already been touched on by Sir Oscar de Glanville, and he was of opinion that the Governor should have power to refer such matters to the Upper House; but I feel that would be taking away from the responsibility of the Lower House in these particular matters. Unless the Lower House realises that it has the sole responsibility for voting supplies, I think it will not develop that sense of responsibility which has on many occasions been absent in the present Legislative Council. I would add, My Lord, that I am assuming the Governor will in any case have reserve powers to restore any grant which is thrown out by the Lower House.

Then, as regards the composition of the Upper House, and the method of election, Sir Oscar de Glanville yesterday stated that he agreed to there being no separate electorates for minorities or special interests, and I agreed with that view; but this was distinctly on the understanding that there will be adequate provision for such interests in the Lower Chamber.

Another question which I think has hardly been touched upon in these discussions is that of the official bloc in the Upper House. I fully realise all the objections that there are to anything in the nature of an official bloc; but I still feel very strongly that the Upper House would lose very much if it did not have the services of experienced officials, especially during the first few years of this reformed Legislature. I cannot put forward in detail any proposal as to how the services of these officials could be obtained, because the question arises as to whether or not they should have the power to vote; but I would suggest, in any case, that the Governor should not be restricted from

appointing officials to a certain number—or an indefinite number rather—of the nominated places in the Upper Chamber. I imagine that, as time goes on, the necessity for appointing officials would decrease. The practice might, and probably would, eventually fall into disuse.

Another point, My Lord, is the tenure of membership of the Upper House. I think six years would probably be a suitable period, and that one-third of the members should retire every two years; but I understand that this would apply to nominated members equally with elected members. I make this point because the minorities would be dependent on getting their representation amongst the elected members through a single transferable vote; and, if at the end of two years, one-third of these elected seats fell vacant through retirement, the minority interests would have very little chance of obtaining representation with only such a small number of seats open for election. That is, in the case of a House of 30, there would be only five seats becoming vacant at one time from the elected side of the House. It seems necessary, therefore, that when a certain number of elected seats fall vacant at the same time, a similar number of nominated seats should become vacant, so that the Governor would have an opportunity of redressing any inequality of representation that might arise through the majority party in the Lower House securing the elected seats. I hope I have made myself clear.

There is one head in the Agenda: Liability of the Chamber to dissolution. I take it that that raises the question as to whether the House should be subject to dissolution or not. On that point I am personally of opinion that the Governor should have powers of dissolution, though I imagine such powers would very seldom have to be exercised.

Lord Winterton: In what circumstances? Would you elaborate that argument a little? What would be the circumstances in which you would give him the power?

Mr. Howison: Well, I presume that the Governor would have power to dissolve both Houses if a situation of deadlock arose between the two Houses.

Tharrawaddy U Pu: Are there any precedents?

Mr. Howison: I cannot say. I have not studied the question very closely.

Tharrawaddy U Pu: I think not.

Mr. Howison: I should think in a case of deadlock there might be a dissolution of the two Houses.

Chairman: Was that your method of solving a deadlock—a dissolution?

Mr. Howison: I think that might be the ultimate method.

Chairman: I was going to ask you to tell us your views on what might be called minor deadlocks, on the methods generally of regulating the relations between the two Houses in cases of disagreement.

Mr. Howison: I cannot see any objection to the method suggested in these memoranda, namely, a joint session.

Chairman : Would you empower the Governor to call a joint session in certain cases or in all cases, or in respect to definite classes of business?

Mr. Howison : I imagine the Governor would have the power to call a joint session in all cases.

I have only one other point to bring forward. It is with regard to the age-limit of membership of the Upper House. I think the members should be not under 35 years of age.

Sir O. de Glanville : May I reply to one point raised by Mr. Howison. I think he has misunderstood what I said yesterday with reference to the powers of the Governor in financial matters. I gather from his speech, that he thinks I want to give unlimited power to the Governor, whenever a grant is cut down, to refer the question to the Upper House. I did not suggest any such procedure. I wanted in my remarks yesterday to point out a difficulty which may arise. We have to go back a little into the past. We know that in Bengal the majority entered the Council with the object of wrecking the reforms, and succeeded in doing so by refusing supplies. They refused to grant the Ministers' salaries, and the result was that all the transferred subjects had to be taken over by the Governor of Bengal. Attempts were made in our Council, and have been made for many years past, to wreck the reforms. We can speak of this quite plainly, because all these things are on record. It was shown quite openly in the debates what the purpose was, that of wrecking the reforms. Year after year resolutions were brought up in the Council to refuse the Ministers' salaries in order to bring the reforms to a standstill, and to compel the Governor to take over the transferred subjects. That attempt was defeated, but we must contemplate the possibility, in a new Council and Constitution, of a majority party in the Council, as happened in Bengal, refusing to take office and refusing to grant supplies, having entered the Council with the expressed and avowed object of wrecking the Constitution. In that event we have to consider how the emergency is to be met.

It can be met in the provinces of India at present, and will, I think, be met in the provinces of India in the future, by the Governor taking over the transferred subjects, taking over the whole administration. In the case of Burma, with two Houses, I suggested a possible alternative to that—namely, that in these cases where there is a wrecking motion to refuse supply, it might be an alternative to the Governor taking over the transferred subjects to refer the question to the Upper House and, on obtaining their consent, to carry on the Government as well as he could with the Upper House. I suggested that merely for discussion, as I did not think it would be advisable that even a majority determining not to work the constitution should deprive the loyal portion of the population from having some voice in the Government of the country, and I also thought that an Upper House which was willing to work the constitution would be a great constitutional aid to the Governor. There are these two alternatives. It is a danger that we have to face, and I thought when I raised the question yesterday, that it would bring forth, especially from Burmese members, some solution as to what should be done in a difficulty, which I hope may never arise, but which possibly may.

Tharrawaddy U Pu: May I say a word in reply to my friend, Sir Oscar. I will be very short. It is true that I entered into the Burma Legislative Council, either to mend, or to end, the system of dyarchy, which we had there. It is true that I made many motions to refuse supply. I did that because the system of dyarchy was not a system which was accepted by the people of Burma. My friends also did not accept it at all. Now we are asking His Majesty's Government to give us a form of government well known in the world. We believe that we are going to be given a constitution like those of the Dominions, and, on that assumption, we are joining in the discussion of the constitution. Therefore, it will not be necessary at all, in future, to bring a motion like those which I have moved during the last six years, and there is no need to fear that such a wrecking motion would be made by anybody, because we are going to have the type of government we desire.

Lord Mersey: Tharrawaddy U Pu says that, if he gets the constitution he wants, he will not try to wreck it; but supposing he does not get the constitution he wants, or supposing some other gentleman, who, perhaps, is not present at the table, takes similar views, what the Conference will want to know, I think, is what means does Tharrawaddy U Pu suggest for overcoming the real difficulty of being precluded from carrying on the government?

Tharrawaddy U Pu: In reply to that, my only answer is that age will teach me, I think, what to do in the next few years.

Lord Mersey: What means does Tharrawaddy U Pu suggest for the government being carried on in the circumstances which Sir Oscar de Glanville was outlining? How is the government to be carried on if the Lower House refuses the necessary supplies?

Tharrawaddy U Pu: I think I should adopt the well-known policy of the late Earl of Oxford, and "wait and see."

Lord Winterton: That is a most unsatisfactory answer, and I should like to press those on my left for a reply. They have been very vociferous in the course of the discussion, and here they have to meet a case put to them by my noble friend, and I appeal to all of them to answer it. What do they propose in the event of the circumstances arising of the nature outlined by Sir Oscar de Glanville? What is their solution for dealing with the constitutional deadlock which will thus arise? I invite them to state their views.

Tharrawaddy U Pu: A statement will be made jointly by my friends at the conclusion of this Conference.

Lord Winterton: I understand you have given an undertaking that, before this Conference is over, you will produce a statement to answer the question put by Lord Mersey?

Tharrawaddy U Pu: We want to see the constitution approved by your Government first.

Lord Winterton: No, that is not the point. You say that if you have a constitution you like you will work it, but we want to know what you will do if you do not like it. We want an answer, and I am sure public opinion in Great Britain will demand an answer.

U Ba Si: These questions arose out of the arguments put forward by Sir Oscar de Glanville, but Sir Oscar's arguments were based on the

happenings which had taken place during the dyarchical system of government. We are now discussing a new constitution which will give us a form of responsible government. There is a vast difference between responsible government and irresponsible government. The dyarchical system has been admitted by all to be an irresponsible form of government. The Ministry was selected by the Governor as he liked, and it was possible to resort to the kind of obstruction which has been practised; but, when the new reforms come in and we have responsible government, the majority party will become the Government, and there will be no trouble of the kind envisaged. We need not bother about such obstruction, because the Government will be responsible, and the majority party will be in the Government. What fear can we have? There is no reason to have any fear at all, for these questions do not arise. As I say, Sir Oscar de Glanville's arguments were based on the old order of things, but now we are going to have a new order of things, and so these questions do not arise.

Mr. Wardlaw-Milne: I do not rise to follow the points which have immediately been raised, but rather, if I may, to suggest definite lines for purposes of discussion in regard to the question of how this Upper Chamber should be constituted. In the first place, I think the discussion has shown that most Delegates are in favour of an Upper House which will be roughly half the size of the Lower House. Working on that basis, I have tried to find what the position is in other places, and I find that in other parts of His Majesty's Dominions that system has been more or less applied. I think it is desirable that we should lay down some proposals which may be the subject of consideration by the Committee.

I think if the Upper House is to be half, or about half, the size of the Lower House, it is clear that the Upper House should have some continuity. It certainly should not dissolve at the same time as the Lower House. I notice a period of six years has been suggested more than once as a suitable period. I suggest, if that is decided on eventually by the Conference, that part of the Upper House should go out of office at stated periods; say one-third after three years and another third after five years. So that its period of office shall not expire at the same time as the Lower House. You will have a continuing period.

Then in regard to the question of the composition of the Upper House, my own view would be that in the position in Burma, at the present moment, it would be desirable that at least half of that House should be nominated. I may say that a question was asked, when one of the Delegates was speaking, as to what was the position in other places. He was asked but he had not the information beside him. In Canada, Newfoundland and New Zealand, the Upper House is entirely nominated, and in South Africa a portion of the Upper House is nominated. I suggest that in Burma it would be well that half of the Members of the Upper House should be nominated. The question as to the Governor's ability to place before the Upper House his proposals and his views, is one that would have to be met. I think that could be met by having a certain number of officials nominated who might not vote, but who might be there purely for the purpose of putting the Governor's views on any special subject. That is a matter which the Conference will no doubt consider. But I suggest

if half are ~~nominated~~, some of those should be officials, who would be constantly in touch with the work of the Upper House.

Then the question of the power of the Governor in the case of deadlocks is a very difficult one to get over. I think that can only be met in the first place by joint session of the two Houses in lesser difficulties, and in the last resort, if no agreement can be come to, to the power of the Governor to dissolve both Chambers. I can see no other way if you get to a deadlock, which is sufficiently serious, and which cannot be got over by agreement. Everybody hopes it would never arise, but, if that does come about, it is obvious that somebody must have power to act. In that case I suggest the Governor should have power to dissolve both Chambers, if necessary.

I omitted to state this other reason why I think it would be desirable that there be a official bloc of some kind. I say this with great diffidence after what has been said this morning. I will put it in this way: If it is the opinion of the Conference that there are minorities to be considered or that there are interests—I will not use the word “minorities” because they may be so small as hardly to be worthy of being called minorities; but assuming there are certain interests which cannot be expected by any form of election to be represented, I think the fact that the Governor has power to nominate a certain number of people will enable those interests to be represented in the Upper Chamber.

The question of the election of that moiety of the Upper Chamber to whom I have referred who would remain to be elected, is a very difficult one; because I have been looking into figures which have been supplied to all Members of the Conference, and I find that election on the basis of a popular election and on the basis of the present franchise in Burma would mean that you would have one Member elected for a thousand constituents, but those thousand constituents would be spread over no less than 8,000 square miles. Well, that is an impossible electorate. Therefore any form of popular election to the Upper House, if it is only to be half the number, seems to me to be beyond the bound of practical politics. It looks to me that in that case the best solution would be to have the elected Members of the Upper House elected by the Lower House by some system of single transferable vote.

I only put these suggestions forward, My Lord, with the idea that we should get the practical politics as to what should be done. It seems to me these are the main points which have to be settled in the discussion of a Second Chamber, and I am putting them forward rather with the object that the Conference may perhaps consider them as a basis for discussion, and see if they can amend them.

Chairman: I do not know whether any other Delegate would like to express his views either as an original observation or as a comment on the points raised by Mr. Wardlaw-Milne.

Sir O. de Glanville: I would like to ask one question about this dissolution of the Upper House. I do not quite see when there is a deadlock why the Upper House should necessarily be dissolved, and I do not think Mr. Wardlaw-Milne quite intends that. Why should not the Upper House ordinarily be continuous and never be dissolved at all? If a third of the members go out every two years, say, and each member then, after the first start, will hold office for six years, and

you are always getting new blood in, it would be under very very exceptional circumstances—hardly ever exercised I take it—that it would be dissolved.

Mr. Wardlaw-Milne: May I say in reply to that, Sir Oscar has put my view. My idea was that after the first three years, when the first lot would go out at three years, the period would be continuous for six years. I quite agree that it may not be necessary even to have the power of dissolution of the Second Chamber. I was very careful to say in the eventual result that nothing else could be done it might be advisable to give the Governor that power. I think we all agree that the first principle is that the government must be carried on; and if you do get to an absolute condition in which it is impossible to carry on the government in any other way, somebody must have ultimate power.

But I entirely agree that the requirement that the Upper House should be dissolved is really outside practical politics. I do not think it would be at all likely ever to occur, and I do not know that it is material whether the actual wording includes that power or not.

Lord Lothian: May I ask for opinions as to one matter in connection with joint sessions and with resolving deadlocks where these arise between the Lower House and the Upper House. If you have an Upper House which is continuous, you cannot as a rule deal with it by dissolution. In most cases, you have to provide that there shall be a definite period of delay, after which the matter is settled by joint session, which means that the majority vote, or the view of one House or the other, prevails. If you provide for automatic joint sessions at once, both Houses get organised on a party basis, and the effect and purpose of the Second Chamber, which should be that of a delaying and revising Chamber, of a Chamber which represents the continuous view, and is capable of mitigating the sometimes narrow view taken by the Lower House, is to that extent destroyed.

Mr. Wardlaw-Milne: I entirely agree with what Lord Lothian has said. I did not go into the matter, because it was not covered by the point on the Agenda which we were at the moment discussing. It is a point which would require considerable elaboration. I imagined that there ought to be joint sessions, but I felt that care should be taken to guard against the joint session becoming a regular feature, which would be very undesirable. An arrangement might be made that the joint session should be the exceptional thing, and that the Upper House should have what, for want of a better expression, we call the power of delay.

Chairman: There is one important point connected with the joint session. I have no doubt that most of you are well acquainted with the Parliament Act in this country. I am not quite sure whether it is suggested that whenever there is a difference between the two Houses—that is to say, a difference of opinion about a Bill—a joint session should be immediately called. In that case, of course, the question is resolved very soon, because the two Houses are called together, and a vote is taken, and the Bill is carried or not carried as the case may be. The great defect, to my mind, of that method of immediate settlement is, that there is really no opportunity for public opinion outside to express its views upon the matter

in controversy. One of the points about our system here—I do not like the Act, I was not responsible for the Act, and I fought against it to the best of my capacity—is that it has the advantage that you have to bring in, in a subsequent session, another Bill. You have to bring it in, in exactly the same form as in the previous session, and you find that that is very often a difficult thing to do, because things alter; but, anyhow, there is a minimum period of two years between the time when the Bill was originally passed, the time of the second reading in the House of Commons, and the time when it becomes, under this forcible procedure, shall I call it, law. There is therefore a period in which public opinion can act and can consider. If you have the joint session almost immediately, that opportunity is not given, and I would rather like to know what my colleague Mr. Wardlaw-Milne thinks, if he would be good enough to tell me.

Mr. Wardlaw-Milne : To begin with, of course, I cannot be expected to look at the matter quite as you would do in regard to the position as between the two Chambers in this country, but I am bound to say that I think the practical method which has come about by means of the Parliament Act in Great Britain—that is to say, the fact that a Bill can only come back if refused by the Upper House twice, then comes back again to the Lower House—in some form or other, not in the form that we have it in this country, but in some form or other to allow delay, is advisable. By that I mean this. If a Bill is passed in the Lower House and refused in the Upper House, in the Burma Constitution there might be a method by which again it should be brought up again for consideration. A period of delay would, in fact, operate, and the Lower House would have an opportunity of amending their views, putting them forward in an amended form, reconsidering the Bill and endeavouring to get it passed. If, upon a second attempt, it cannot be passed, then you get to the stage at which some joint session or some joint consideration must be given, and if that fails you get to the position in which the Governor must decide to dissolve the Second Chamber or both Chambers and start again; but I feel myself that the main thing to be achieved by the Upper Chamber is a chance of revision, and, consequently, if a Bill is refused it might be returned to the Lower House for reconsideration. I do not suggest that the powers that exist in this country should necessarily follow, but, at any rate, it should go back for consideration and come up again. I think that is a possible way of dealing with it.

Mr. Isaac Foot : Would not the provision in the Government of India Act be applicable—a period of six months? Six months, in the Government of India Act, is provided for between the passage of the Bill and the convening of a joint session. Obviously, the point raised by Lord Lothian, I suppose, would be accepted by us all, that you cannot have, in case of division, a joint session immediately, because there must be time to consult public opinion. It would be in the interests of the Lower House, even if they had a quarrel with the Upper House, that they should have an opportunity of enlisting public opinion, and the question is, what period would be suitable first of all for adequate delay and a period sufficient for the Lower House to get that measure of support of public opinion which is necessary for the passage of their Bill. Two sessions, I believe, apply in South Africa. A Bill there, which is held up by reason of division, has to pass through

two successive stages. Then we have the experience in this country, which may be for a much longer period. I do not know what the experience has been in Canada, but under the Government of India Act, that period of six months has to expire, and, I should think, seeing that we have a precedent for it there, that might be the suggestion that we should adopt in this Conference.

Mr. Wardlaw-Milne: I entirely agree with Mr. Foot. What was in my mind rather was an elaboration of that—that the Bill might be first returned in order to get reconsideration of it. It is a mere matter of procedure. It would certainly mean a delay of six months, and probably it would, in fact, mean a longer period, perhaps even a year. At any rate, that was the only difference between us. I think that the Bill might well be returned for consideration.

Mr. Isaac Foot: During the interval of six months it would be implied, of course, that there might be agreement between the two Chambers. We are contemplating the case of a deadlock, which means, of course, that the views cannot be reconciled.

Chairman: Then, Mr. Foot, would your idea be, that where there seems to be no possibility of the views being reconciled it would be the duty of the Governor to call this joint session, or would it be in his discretion, acting or not acting on the advice of his Ministers, as the case may be, to allow the Bill to lapse for that session, it being open to the Government, if it wished to do so, to introduce it during the next session? I think that is a further point on which you did not indicate your view.

Mr. Isaac Foot: I am presuming, of course, that there is pressure on the part of the Lower Chamber for this measure. If there is pressure, then I think the right method of solution would be by joint session.

Chairman: Immediately after the due delay, if I may so express it?

Mr. Isaac Foot: After the due delay which is prescribed in the case of the different Legislatures, and which in India, which is your nearest parallel, is six months. Does that meet the point?

Chairman: I was going to say that the converse, therefore, is that you would not give the Governor the power to refuse the joint session.

Mr. Isaac Foot: I should assume that there should be the right to have a joint session.

Chairman: The right, yes.

Mr. Isaac Foot: We shall have to consider later on what the over-riding powers of the Governor should be, but the normal procedure would be for a joint session in the event of deadlock, after a stated period, to deal with a matter where the views of the two Houses cannot be reconciled by agreement. Anything may happen in the interval of six months, of course.

Mr. Haji: Do I understand Mr. Foot to suggest he has no objection to the point made by Mr. Wardlaw-Milne, that a Bill might be returned to the Lower House or might be sent back to the Upper House, as the case may be, for further consideration before the joint session? Can we take it that the views of Mr. Foot and of Mr. Wardlaw-Milne on this point are the same?

Mr. Isaac Foot: Yes, there is no difference between us on that; it is only that, if the deadlock continues for six months, the normal way for the settlement of that deadlock shall be by a joint session. Later on, of course, we shall have to consider the powers of the Governor; but that ought to be the normal procedure.

Mr. Haji: But will the joint session be convened automatically, or will it depend on the discretion of the Governor; or are we going to suggest that the Ministry in power should have the final say in the matter?

Mr. Isaac Foot: I suggest, in regard to that, that the machinery of the Government of India Act should be adopted.

Mr. Haji: You would like to follow closely the machinery of the Government of India Act?

Mr. Isaac Foot: Or any parallel. That is the nearest parallel we have. I cannot charge my memory with how the joint session is convened under the Government of India Act.

Mr. Haji: A period of six months has been suggested, and some speakers have suggested one or two years. I think that if, as Lord Lothian pointed out, the intention of this joint discussion is to modify the atmosphere in which the previous discussions in one House have taken place, it would be desirable to have as long a period as the earlier precedents warrant, and not to adhere too closely to the precedent of the Government of India Act.

Mr. Wardlaw-Milne: I entirely agree, and, though there is no difference between Mr. Foot and myself, that is why I pressed the point of the Bill being returned. I do not want to make the calling of joint sessions a regular feature of the procedure, and that is why I suggested it might be well, in the case of Burma, to have a Bill returned and reconsidered by the Lower House before there was a joint session at all; and I think in practice that would probably give an interval of six months, and very likely a year, which would be all to the good.

Chairman: In fact you would have the conciliatory method if possible. The sledge-hammer method would be in the background but would not be used unless necessary.

Mr. Isaac Foot: And the period of six months would only start, I should imagine, from the time when it was found that the differences could not be composed.

Mr. Wardlaw-Milne: Yes.

Chairman: That might be laid down. There is just one point I wanted to put forward if no one wants to say anything more on that particular matter. That is on the question which has been discussed about the election of those elected members to the Upper Chamber. I confess I do not very much like either scheme that has been put forward. It may be difficult to choose and possibly you can only take the second best. One was the method of election. Well, it has been pointed out how very large the constituencies are. I may say we came up against that very forcibly in the case of India. I need not enlarge upon the difficulties of representing very large constituencies. Then, on the other side, it is suggested that in order to avoid that

difficulty you would have the Members of the Upper House—those who were elected—chosen by the single transferable vote, or in some other way, by the Lower House. Well, I must say I have never been very much in favour of that second method. I thought on the whole that you would not get the same authority and freedom, and perhaps dignity, from the Upper House if they were in this way the nominees of the Lower House. They might be a little tied to the original parent, to the small constituency which elected them. I think there are difficulties both ways. I do not know whether on that point any Delegate would care to make an observation as to the different methods by which they should be elected.

Mr. Isaac Foot: Is there any third course, Sir? You speak of two courses.

Chairman: That is why I am rather inviting the ingenious minds of the Delegates to put forward another course.

Mr. Isaac Foot: Either election by the Lower House or direct election by the constituency, always remembering, of course, that there will be the nominated members to cover the other interests.

Chairman: Oh, yes.

Mr. Isaac Foot: Is there in practice anywhere a third course?

Chairman: That is what I am asking, because, if there is not, we have got to choose between two methods, both of which I think are open to considerable difficulty.

Mr. Cowasjee: As regards the direct election, we have in fact a constituency in Burma of the whole of the Province which elects Members of the Legislative Assembly and the Council of State. That has been found practicable for the past several years, from 1922.

Chairman: Well, you may say practicable, but have you found it satisfactory? That is another matter.

Mr. Harper: There are only two representatives of Burma in the Council of State. One represents the Burma Chamber of Commerce, which is a very easy constituency, naturally, from which to elect; and the other represents the whole of the rest of Burma. There is only one candidate for the seat.

Chairman: There was only one candidate?

Mr. Harper: There was only one seat.

Chairman: And several candidates?

Mr. Harper: I do not think there has been much competition.

Mr. Cowasjee: For the Legislative Assembly there have been four or five candidates.

Chairman: I thought you were talking of the election in Burma to the Council of State in India.

Mr. Harper: Yes.

Mr. Cowasjee: As far as I remember, more than one candidate.

Chairman: I am rather surprised to hear that there was any candidate at all for such a constituency as that.

Mr. Cowasjee: There have been a number of candidates for the Legislative Assembly which stands on exactly the same footing.

Chairman: You are not, therefore, disturbed so much by the great size of the constituency?

Mr. Cowasjee: No. That would give us an independent Upper House, a House quite independent of the Lower House, if that system is adopted.

Major Graham Pole: Have you any idea what the election expenses of the candidates for the whole of Burma are?

Mr. Cowasjee: Not very much, because they cannot exceed a certain limit.

Mr. Wardlaw-Milne: My Lord, on the point you have raised as to the difficulties of election by the Lower Chamber to the Upper Chamber, the half that I referred to, I quite agree that it is not an ideal system; but the difficulty I have is, that I do not see any other system. I wondered whether, after the first period, the first decade or the first few years, it would be possible for the conference to consider whether those so elected should have served a certain period in the Lower House. I do not know whether that would appeal to members as a possible way of securing what are called the Elder Statesmen. I speak from a quite unprejudiced point of view. I have not the slightest doubt that there may be men elected now to the Lower House who are fully fitted to sit in the Upper House; but it struck me, taking human nature as it is, that that might be a way out of the difficulty: that you would secure franchise among those who have had experience of what will be the Burmese Parliament, and therefore they will be perfectly well-known to the electors. It struck me that might be a good solution. I do not know that it applies elsewhere, but I do not see why it should not apply; and in practice, in India, in the old days, it did apply. In practice, it was the custom for men to be sent to the Viceregal Council, who had been for some years in one of the Provincial Councils.

Going back for a moment to what was said by Sir Oscar de Glanville and my reply, I want to make it clear that I do not want the power of the Governor alone to dissolve the Upper House to be done away with. It is possible that he may require that power. We must legislate for all possibilities. It is quite conceivable that he might have a Lower House with which he could work and an Upper House with which he could not. It is true that it is very unlikely, but it is possible, and therefore the ultimate power must rest with him to dissolve either, or both, Chambers.

Mr. Haji: Mr. Wardlaw-Milne has made some observations which in my opinion would make the field of choice very narrow indeed. If I understood Mr. Wardlaw-Milne correctly, he suggested that it might be one of the qualifications that the men chosen for the Upper House should have been, at some time in their lives, members of the Lower House. Now, it is bad enough to have indirect elections, but it is much worse to have it laid down that, even within the scope of election, the field of choice should be limited to candidates who, at some time or other, have served in the Lower House. That is why I feel that, in emphasising my remarks in a general sort of way which I made yesterday, I should like to make it clear that I do not favour indirect elections to the Upper House. Really, there are no difficulties whatsoever in accepting direct elections through which

the Upper House is to be recruited. I take it that it has been more or less accepted by this Conference that the half of the Upper House will be nominated. Taking 60 members as the figure of the Upper House, 30, therefore, will be nominated, and so you need not worry about them. With regard to the other 30, it would be possible to have either the present Council of State electorate widened, if you would prefer to do so, or, it would be possible to have territorial divisions arranged in a manner which will give you the results that you want. For example, to-day, My Lord, as has been pointed out, about 15,000 voters in Burma send one representative to the Council of State. When, later on, in a separated Burma, the Council will be concerned with a large number of subjects that are to be Central, it would be desirable to have some direct constituencies from which the representatives could be drawn by direct election, and I do not quite see why it would be difficult to get the men you want, say, from this Council of State electorate. The franchise may be lowered somewhat, but that would be an immaterial addition to the number of voters. Then there are various sources, into which I need not enter, from which the candidates desired could be drawn. In any case, whatever the details, I would rather have the direct election in the case of the Upper House than an indirect one by the Lower House. What, after all, is the idea? The idea is not to have in the Upper House those who are, so to speak, graduates from the Lower House, but people of different character and complexion from those of whom the Lower House is composed. The best method would be so to organise your constituencies that the right material would be available.

Mr. Isaac Foot: How would Mr. Haji protect the minority interests? I can understand that, upon the indirect representation, an interest that is only small in the representative house could still secure its representation according to its number. That is, of course, the advantage, as we see it in the North of Ireland and elsewhere. How would he secure that in the Second Chamber the small minority secured strength commensurate with its powers?

Mr. Haji: I am very glad that Mr. Foot has raised this question, because it enables me to bring out a point which I am afraid I had omitted myself. I would like to see in the Upper House all interests represented in the same proportion as they would be represented in the Lower, only I would like to have, even within the minorities, the different complexion of those minorities in the Upper House as compared with the Lower. I do not want to go into figures, because the detailed discussion of this subject will come up when we consider the Lower House; but, for example, I would say as a general rule that the composition of the Upper House should be a replica on a smaller scale of the Lower House, the franchise being slightly or more raised, as the case may be, but the franchise being different in order that the proportions might be maintained, and yet a different type of individual be returned by constituencies different in complexion from those electing to the Lower Chamber.

Mr. Wardlaw-Milne: May I say that, personally, I think there is very little difference between Mr. Haji and myself. I entirely agree that my solution is not the best one; I would much prefer the House to be elected by a franchise; but I think, if his view were to be

followed, it would necessitate that that franchise should be a much stricter one, a higher one, if you like, than the franchise of the Lower House. Otherwise it is quite clear to anybody who looks at the figures, that the electorate would be, for any member, an impossible one with which to keep in touch and, in fact, it would be an impossible one for him to secure their votes at all. Consequently, it would require to be a very much higher franchise. I think that that has its disadvantages as well, but if they could be got over I should have no objection whatever to that principle. The only difficulty is the practical working of it.

Mr. Campagnac: On this matter I can speak with some personal experience, because I represent a constituency which extends throughout the length and breadth of Burma. I have represented that community for the last nine years, but during those nine years I do not think that I have been able to visit one-fourth of the places where my electorate live. So far as the Assembly elections are concerned, it is true that we have an electorate, but I think I am right in saying that not more than two or three thousand votes are cast throughout the whole Province for members to the Assembly, and out of those two or three thousand votes more than 60 per cent., or perhaps 70 per cent., of votes are cast in Rangoon. That shows how impossible it is for the candidate to keep in touch with the whole of the electorate, or for the electorate to take any intelligent interest in returning candidates.

I am not at all in favour of the method of direct election. I also think that there is considerable force in what the Chairman stated, that we might not get the best candidates if they were elected by the Lower House, because the people in the Upper House would consider themselves tied to the nominees of the Lower House. I do think we should find some other method of election. We have municipalities in our large towns, in Mandalay, Moulmein, Bassein, and places like that, and we have district councils, and we have chambers of commerce—Burmese, English, Chinese, and Indian. We have also our University. I think we might form special electoral colleges, or whatever you might term them, from these bodies, which would elect people to the Upper House, and in that way we should probably get the best people from different parts of Burma, who would know the needs of the different places better than a person who stood for Burma in a general election.

U Ba Pe: In the joint statement we have submitted to-day, you will find that on this point we have stated that 50 per cent. of the members should be chosen by direct election, 25 per cent. by indirect election by the Lower House, and the remaining 25 per cent. by nomination by the Cabinet. The idea behind that proposal is this. We do not want the Upper House to be a mere replica of the Lower House. It should represent not only the will of the country, but should also have members who have experience in various directions. There will be people who are not willing to enter a Parliamentary contest, but who would be willing to be nominated or to take part in a contest on a limited scale. In that way we hope to get all sections of the country available for the work. Those who are returned by direct election will be in touch with the constituency by which they are elected. The elections will be on a territorial basis, but you need not have the

whole country as one constituency. It can be divided up to suit the number of seats which are to be filled by direct election. Indirect election by the Lower House will be from a panel of men selected for the purpose for which they are wanted, men of experience and men who are an honour to the country, and so on. The nominated members will be in a position to explain Government measures and support the Government, so that the Government of the day will be supported in the Upper House. If we have these three methods we shall have the will of the country expressed, and we shall also have men of experience, and members who will help and support the Government in the Upper House.

We have also dealt with the question of deadlocks. One point Sir Oscar de Glanville raised is, that in special cases, financial measures should be referred to the Upper House and that the decision of the Upper House should be final. Assuming the Upper House disagrees with the Lower House, what is the remedy there?

The only remedy is dissolution. So in any case the power of dissolution should be with the Governor for both Houses.

Chairman: There is just one point on that. You said you wanted a portion of the Upper House directly elected and part selected by the Lower Chamber. I suppose you would agree then, that as the constituency would be large, the franchise would probably be higher than the franchise for the Lower House.

U Ba Pe: The franchise we suggest is the same as that for the Indian Legislative Assembly.

Mr. Wardlaw-Milne: There is one very important point to which *U Ba Pe* has referred; that is, that if any portion of the Upper Chamber is to be elected it should be on a territorial basis, to insure, in fact, against what Mr. Campagnac has pointed out, the possibility of most of the votes being cast in one place. With the present conditions in Burma, it is bound to be the case that, in an all-Burma electorate, the candidate must pay, if I may put it in that way, too much attention to Rangoon, because that is where the bulk of the votes would be. Therefore, the territorial basis, if that is eventually decided on, would be a good one.

U Ba Pe: The members who are elected by indirect method, as well as the nominated members, would retire in rotation; a third of them would retire by rotation at a stated period.

Chairman: You would not give the Governor the power of nominating a certain number?

U Ba Pe: No; it should be by the Cabinet.

Chairman: By the Cabinet only?

U Ba Pe: Yes. That is following the precedent in Ireland.

Chairman: Yes; but do not let us be absolutely bound by a precedent in some other country. I get a little tired of these precedents. After all, Burma is not Ireland. You can suggest what you like; but would it not possibly add to the position of these men if they were nominated, anyhow, by the Governor on the advice of the Ministers?

U Ba Pe: Just the reverse; in Burma they would be regarded with more honour and respect if they were nominated by the Cabinet.

U Maung Gye: That is one of the reasons, My Lord. The Governor would be in Burma for a short period only; he will not be there for more than five years. His local experience will be very limited. Therefore he should be assisted by his Cabinet in the selection of men who will be able to represent us in the Upper House.

Chairman: I was not suggesting he should not be assisted. I was only suggesting they should be appointed by him on advice. What do you say to that?

U Maung Gye: Yes, I agree that the Governor should act on the advice of the Cabinet.

Tharrawaddy U Pu: On the advice of the Cabinet.

Chairman: That is what I suggest.

Mr. Cowasjee: Or on such advice as he cares to take.

Chairman: He must, of course, exercise an independent discretion.

Mr. Cowasjee: It is suggested that the Governor should be the sole person to nominate. He can, of course, take what advice he likes, but the responsibility must be his. Under the present system the Governor nominates.

U Ba Pe: Well, we are not going to have the present system any more.

Mr. Cowasjee: It has very satisfactory for the last seven years.

Chairman: It is not necessary, I think, to go into what happened during the last seven years.

Mr. Isaac Foot: May I ask one question to which I may not have an answer now, but on which, perhaps, we can be advised by those who know the circumstances better than we do. It is on the question of that high franchise and the possibility of territorial constituencies. Can we be informed whether a high franchise would not be inconsistent with territorial representation: whether a high franchise would not mean concentration of the power in Rangoon and Mandalay? I do not want the answer now.

Chairman: I quite appreciate that point. I will have that enquired into.

U Ba Pe: If we adopt the electorate for the Indian Assembly, the voters for which are distributed all over the country, the relation will be on a territorial basis, and there will not be much difference between the numbers of voters on that basis.

Mr. Cowasjee: There would be numbers of people who would pay that minimum revenue.

Mr. Haji: May we have circulated to us the figures which have just been quoted?

Chairman: I will certainly see that they are circulated.

(The Committee adjourned at 1-17 p.m.)

Proceedings of the Third Meeting of the Committee of the Whole Conference, held on Wednesday, the 9th December, 1931, at 11 a.m.

HEAD 3.

CONSTITUTION OF THE LOWER HOUSE.

The following points for discussion in connection with this Head were drafted by the Chairman:—

- (i) *Size of the Lower House.*
- (ii) *Life of the Lower House.*
- (iii) *The Official Bloc.*
- (iv) *The Presence of Officials or Advisers.*
- (v) *Nomination.*
- (vi) *Representation of Minorities Communities and Special Interests.*

PRELIMINARY DISCUSSION.

Sir O. de Glanville: My Lord, before we begin the discussion I should like to get a little information. The question was raised yesterday as to whether there were, or were not, minorities in Burma. Speaking on behalf of the European community, I should like to have this matter clarified a little. I do not think it is necessary at this Conference to forget the history of a century or more and to have to prove that there are Europeans in Burma, or that there are large European interests in Burma. Those have been recognised, and, I think, will continue to be recognised.

What I do wish to know is the position of my friends on my right as regards our representation. Do they, or do they not, admit that we must be represented in the new Lower Chamber? If they admit that, then we can discuss the method of representation and the strength of representation.

Mr. Cowasjee: On the question of minorities in Burma, my friend U Pu, in the early stages of the discussion, said:

"I have already told you that the minorities are quite safe in Burmese hands. I feel this from the bottom of my heart. I would be the last man in Burma to do harm to the minorities. I agree that the minorities must have their seats in the Legislature."

Then he went on to say:

"Somehow or other they must have representation, and adequate representation, and with regard to other things, these will come. I submit that the minority interests are quite safe in our hands."

He said that in Burma the minorities were ruling; they were co-operating with the Government and going against the majority, and so on.

In the early stages of our discussion, therefore, there was no question about there being minority communities in Burma; and as a matter of fact, and speaking on behalf of the Indian community, I may say that that community in Burma numbers 1,017,000 people, and within the elective area there are 955,338 Indians. Since the days of the Reforms scheme, from 1922 onwards, we have had special separate electorates for the Indian community for the Legislative Council in

Burma and we have had eight elected members on the Legislative Council, and one elected by the special constituency of the Indian Chamber of Commerce. In other words, we have had nine elected members on the Burma Legislative Council from 1922 onwards representing the interests of the Indian minority community.

I submit, therefore, that it is idle now to suggest that there is no minority community in Burma or that there is some sort of onus upon us to establish the existence of this minority community. I shall limit my observations on this point to saying that the minority community of Indians is a large community with a population of over one million, and that the rights of that population have been recognised in the Legislature as a separate entity by there being nine elected members in the Council to represent the interests of that community. I wish to say nothing more at this stage except to point out the fact that as a minority community the Indian community has been recognised as a special community entitled to protection by a separate electorate.

Chairman : Perhaps one way of beginning the discussion would be to get the general ideas of the Conference as to the numbers of the Lower House. I am inclined to think that, if one had a general idea, or, possibly a general agreement, as to the numbers of the Lower House, it would then be easier to deal with these questions of representation of minorities, and minorities would then be in a better position to put forward their claims as to the number of seats they require.

Mr. N. M. Cowasjee : Well, as your Lordship takes the view that there is no question of the existence of minorities, I think my friends on the other side should pursue their argument upon the question as to what ought to be the strength of the Legislature.

Chairman : We obviously have to proceed on the basis of the existing facts, I think.

Mr. N. M. Cowasjee : Yes.

Major Graham Pole : But do the "Twenty-one Party," or the others, seriously contest that there are no minorities in Burma? Because up till now in their various speeches they have themselves admitted the existence of minorities; they have said there are minorities. My friend on the other side of the table shakes his head, but he said, when speaking on the 2nd December :

"We agree in settling the future Constitution that due regard should be shown to the interests of those whose case calls for special consideration."

Are these minorities or are they not minorities?

U Ba Pe : I said if their case called for special consideration. I consider there is no case made out for that purpose so far.

Chairman : There is no case?

U Ba Pe : They have not made out any case so far. I will give an illustration. My friend, Mr. Cowasjee, is now pressing for Indian representation in the Lower House by separate electorates. Now, My Lord, I will just illustrate this point to show our difficulty. There are in Burma, Indians; no one will deny that. But the Indians are divided roughly into two classes; those who have settled down or those who are descended from settlers in Burma, and those who go there only for a temporary purpose, for business, for professional practice, and

so on. So that there are two distinct classes : those who have settled down in the country as well as those who are born of the settlers, are known as Burma Muslims. Now, my friend over there, U Aung Thin, represents the Burma Muslim. I will just read this out in support of what I am saying. At a meeting held by the Burma Muslim Association, which represents the whole of the Burma Muslim community in Burma, two or three days before our departure, the President of the Burma Muslim Association gave the mandate to my friend U Aung Thin. These are his words.

Mr. Haji : Is that the mandate of the Association?

U Ba Pe : Yes. This what he said.

Chairman : Who said this?

U Ba Pe : The President of the Burma Muslim Association.

Chairman : What is his name?

U Ba Pe : U Ba Oh. His Indian name is Mr. Odula.

“ It would be impertinent to give advice to men of such prestige ; we can only express the desire that, one and all—whatever may be their individual methods for achieving it—will all work as one man, with one heart and one brain, and one aim, to secure for this, our golden Motherland, the highest possible measure of self-government, the highest possible control in the administration of our own affairs.”

You will notice that the phrase is “ to secure the highest measure of agreement.” There is no mention of communal representation.

Mr. Haji : From the quotation it looks as if what had just been stated was the personal opinion of the President. May I ask if a resolution was passed by the Association?

U Ba Pe : Later on, in this Report, it is stated that Mr. Motala, a very responsible authority, the editor of the “ Daily News,” which is the organ of the Indians in Burma, pointed out the definition of the Burma-Muslim. The definition given was : “ (1) a Burma-Muslim is one who has been born in Burma of Burmese parentage on both sides ; (2) a Burma-Muslim who has been born in Burma of mixed Indian and Burmese parentage ; (3) a Muslim born outside Burma but permanently domiciled here ; (4) a Muslim born in Burma of Indian parentage on both sides and permanently domiciled here.” Mr. Cowasjee spoke of a million Indians in Burma. Of that million 500,000 belong to this community. They are not out for communal representation. Of the balance of 500,000 you must take away the floating population, including the coolies, who, just as the Irish peasants cross the Irish Channel to do work in England, come over to Burma as working people, but do not settle down there. If you take away these temporary settlers as well as the 500,000 Burman Muslims, you have only a small minority of Indians, who are there for trade and commerce, and have no abiding interest in the country. Can we allow any special representation for them in the Council or anywhere else, which would have the effect of interference with our domestic matters? So far as the Indians are concerned, they have no right to claim as a separate community deserving of special representation, but they have trade interests there. That is where Mr. Haji comes in. If

they like, they can claim on special grounds, but not on communal grounds.

Major Graham Pole: U Ba Pe's point yesterday was that there were no minorities in Burma.

U Ba Pe: No minorities in the sense of the League of Nations definition as requiring special protection.

Major Graham Pole: U Ba Pe stated on Monday—these are his words—“ I think we should proceed on the assumption that the Constitution should be on Dominion lines with safeguards for minorities.”

U Ba Pe: That does not mean communal representation.

Major Graham Pole: We were discussing yesterday the point whether there were minorities in Burma or not, and I understood U Ba Pe to say there were no minorities.

U Ba Pe: I was referring to the League of Nations definition.

Major Graham Pole: He said, also, in connection with the Second Chamber, that he looked upon it as a place where safeguards for minorities could be found.

U Ba Pe: Quite so.

Major Graham Pole: He must at least admit that there are minorities. If he will do so, we can get on.

U Ba Pe: I did not say that there were no minorities, but that there were none according to the League of Nations definition. We are prepared to do our level best to protect the interests of the minorities, but, on communal grounds, we see no reason why they require special protection in this way, except, perhaps, in the case of the Karens.

Major Graham Pole: U Ba Pe said yesterday— “ The Upper House should have such standing as to check rash legislation and also to protect minorities.” Well, I think the whole thing we have got out of the way is this, that there are minorities and they must be protected.

U Ba Pe: I do not deny that there are minorities. What I deny is that there is any minority in accordance with the definition of the League of Nations.

Major Graham Pole: Well, we are not at Geneva; we are here in London trying to do this, and we have come to the conclusion, at any rate, that there are minorities and that they require some protection. I think that is agreed on all sides.

Chairman: Apart from the question of whether there are minorities, and the question of whether or not these minorities should be recognised in a particular way, some of those points raised by U Ba Pe have a great deal to do with the question of the franchise, which we are going to discuss, though not at this particular moment. There are several questions, of course, connected with the composition of the Lower House. Now you might, of course, say that there should be separate representation for minorities and Indians. Then, of course, would come the question of how many of them should get representation, because if they are merely a floating population the question would be, what would be the period of qualification for the franchise.

That would be another matter to discuss, and, of course, on that decision would rest the question of how much of the population was represented. I do not think we ought to mix up too many questions at the same time. May I say this about that League of Nations arrangement. I have no doubt that what it said is true, but it is not relevant in any way to this discussion. If 20 per cent. was the amount, it was merely a question of whether the League of Nations was to intervene in other countries in order to protect minorities. It has nothing whatever to do with the question of whether, in a particular country, in Burma, it is wise, or not wise, to give certain representation to minorities; and may I say it is not a question of Geneva rule, it is a question of whether, in the interests of Burma, it is wise, or not wise, to give these minorities, which of course exist—let us really deal with the plain facts; which of course exist—should, or should not, have separate electorates or should be protected in another manner. We are dealing, as I say, with the constitution in a country; we are not dealing with interference in other countries or with the League of Nations, who have, no doubt, to lay down some rules for themselves. Therefore, I think we really might not discuss further whether the League of Nations has some rule of 20 per cent. The League of Nations has a number of other rules extremely inapplicable to other countries, and, may I say, inapplicable, also, to Burma.

Would you consider it possible to proceed first of all by considering the size of the Second Chamber? That seems to me one of the very relevant points, and when we have got the size, whether you think the present size is enough, or whether it should be enlarged, I think it would be very much easier to consider the question of communal electorates, because it would be more possible to say what proportion they should have to the whole. I only throw that out as a suggestion. I do not, of course, wish to dictate the way in which members should discuss these questions. They must discuss them in their own way, but I think it would probably assist the discussion.

Mr. Haji: A picture has just been presented about which I should like to say that, unless it is corrected immediately and at the very first available opportunity, it is likely to cloud and distort the whole of the future discussions. U Ba Pe told us, as against my friend Mr. Cowasjee's statement, that there were over one million of Indians, that five hundred thousand of them were Burma Muslims. If you will look at Annexure 1 of the statement submitted to us by the Secretariat you will see that it says:—

“The elective element in the Council is distributed by communities as follows: Burmese, Indian, Karen, Anglo-Indian, European and Chinese.”

There is no mention of Burma Muslims. Further, when the last census was being taken, last February I think it was, correspondence was conducted between some members of the public and the authorities. A circular was issued by the Government—I daresay it will be possible to get it verified—stating that, for the purposes of the census and from the political point of view, there was no such term as “Burma Muslim.” Moreover, even if we grant that there is such a thing as a Burma Muslim, I want you to examine the accuracy of my friend's statement. He referred to a figure of 500,000. I have here the

figures given to us, and, although owing to some agitation and propaganda conducted in the country, some people, even though there was no column for "Burma-Muslim," perhaps put themselves down as "Indo-Burmans" or "Burma-Muslims" or something like that, the figure is not 500,000 but 182,000. The nature of the exaggeration is quite clear.

I therefore submit My Lord, that if we are now going to enter on a discussion—as I hope we shall, by accepting your suggestion—of the structure of the Lower House, we shall all bear in mind throughout the discussion that, as I have been trying to point out, there is no such thing as a Burman Muslim, and that certainly the figure given by U Ba Pe is atrociously exaggerated.

Chairman: I think, Mr. Haji, we are all apt to exaggerate the number of our supporters.

U Aung Thin: I think there is a slight correction to be made in regard to what Mr. Haji has just said. U Ba Pe referred to four classes of Burma Muslims. The official figures quoted by Mr. Haji refer to the first and second of those classes only, and no figure is given by the census for the third and fourth classes. My friend U Ba Pe considers that a figure of 500,000 represents the population not of the first two classes only, but of all four classes.

(1) *Size of the Lower House.*

Mr. Isaac Foot: I understand that the size of the present Legislative Council is 103. That is the number at present, including the elected representatives and the others. The Statutory Commission, I believe, recommended a membership of from 200 to 250. No precise number was given, but I think that was the suggestion made. As far as I have been able to judge there seem to me to be strong arguments against making the number so large, and I suggest we ought to have regard to the desirability of not burdening Burma with too heavy an expense. That is the argument in favour of a smaller number. Generally speaking, these assemblies are too large throughout the world. I suppose that, if we had not 615 members in our present House of Commons, and we were forming an entirely new Constitution, no one would suggest a number as large as that.

Having regard to the expense, which would be increased with any enlarged representation, and having regard to the advisability of making the number such that the work of the assembly may be transacted expeditiously, I would ask my Burmese colleagues here to consider whether the number should not be somewhere between 100 and 150.

I would further say, with regard to that, that although I realise the difficulties of a large electorate and those difficulties are at present experienced, it is a simple matter in the working of your Constitution in future years, with the development of the country and with the experience you will gain, to enlarge the number, but it is a very difficult thing to reduce it. Therefore, this is my suggestion: Do not let it be a number that may have to be reduced in future years with all the trouble and the controversy that would arise from any such proposal, but let it be a number which can be increased as the circumstances of the country dictate in the generations that are to come. I hope that, in the number that we have, we shall have regard to the

fact that it is the beginning and that we are not making a constitution for all time.

Sir O. de Glanville: My Lord, I would suggest that Mr. Foot's suggestion be adopted. It seems to be a perfectly fair and reasonable one. We, at present, have a Council of 103. If we agree—we can come to this later—to abolish the official bloc, you will have 16 seats to distribute among the electorate; and if we further agree to abolish the nominated members, we shall have 23 to split up. 103 is, I think, a suitable number for us to begin with. Provision may be made in the Constitution, as suggested, to increase that number later. There is one argument—of course it is not a very weighty one, but it is of considerable importance: We have a Council Chamber built for 103, and if we start our Constitution in April next year or in April the year after, we shall have nowhere to accommodate the members, because the present Chamber is so built that even by moving the seats the utmost number I think we could put into it would be 125. It is a minor argument, but still it is one which I think might be borne in mind, especially as we are now in a financial position where we have not enough money to meet our expenditure. I would suggest to my friends on the right that they should agree to discuss the case on the basis of 103; and possibly ten years hence or so, new constituencies may be formed. We can make some more now by distributing the official bloc seats. I think, if we went on that basis it would be convenient to everybody, and I think would be acceptable to Burma; I hope it will be.

U Ba Pe: In regard to the size of the House it was suggested by Sir Oscar that the numbers should be limited to the present figure; that is 103—on the assumption that both the official bloc and the nominated bloc seats will be given over to election. I think he advanced two reasons. One was, that the present size of the Council House is too small to accommodate more members; and the other, was with regard to the cost. As to the first, I do not regard it worth consideration. Your House of Commons has 615 members, while there is accommodation for 400 only. If you were to reduce your number to suit the present accommodation in the House of Commons I am afraid there would be an outcry in the country on various grounds; namely, that 400 members will not represent the whole country, because you will have to increase the size of the constituencies, and so on.

In Burma, you will recollect, if you go through the present allotment between what are known as Urban and Rural seats, there ought to be more rural seats allotted in the future Constitution.

Chairman: Can you give us the proportions at the present moment?

U Ba Pe: Roughly 80 per cent. reside in the rural areas.

Chairman: The number of seats is about 80?

U Ba Pe: There are 49 rural seats, and 22 urban. My idea is that we must try and increase the number of rural constituencies so as to secure greater representation for the rural population.

Chairman: Do you mean, at the expense of the towns?

U Ba Pe: No, but by increasing the number of seats. My idea is that there should be roughly 200 seats, and then we can give adequate representation to the rural as well as to the urban population.

The question of cost should not be against us. Representative forms of government are always costly affairs, and if we do not want to spend anything we might as well go back to autocratic forms.

Mr. Isaac Foot: I understand that the number of urban seats is 22, and of rural 49, and that the population per rural seat is roughly seven times that per urban seat. What does U Ba Pe say to a maximum of 150?

U Ba Pe: 150 will not do, because when we come to the question of franchise, we are proposing adult suffrage.

Chairman: At what age?

U Ba Pe: 21. That will give us about 4,000,000 voters, and our idea is to allow one seat for every 20,000 voters.

Mr. Isaac Foot: We represent more than that here.

U Ba Pe: I might take the case of one rural seat in Burma, represented by one who is attending this Conference. In his constituency there are nearly 54,000 voters, and the area is about equal to five or six English counties. It is impossible for a member to keep in touch with such a constituency, and such constituencies ought to be divided into two or three.

Mr. Isaac Foot: Do you want to establish that at the beginning? Is 200 seats or about that the figure at which you wish to start?

Lord Winterton: I do not quite follow the arguments for this enlarged representation. Both the average population and the average electorate per constituency would be very much less than in this country, and in most democratic countries. The question of expense is an important one for any country which is in the development stage. I should have thought the point at issue was this: in what way will the interests of the public be helped by having a larger proportion of members to the population than is the case with European countries or other Eastern countries.

Mr. Wardlaw-Milne: I have only one remark to make in that connection. The present electorate in Burma is one representative for every 26,000 voters, but I myself have 65,000 voters in my constituency, and another Member of Parliament here has an even larger number. Therefore, the present situation would appear to be that Burma has a much smaller number of electors than most other countries.

U Ba Pe: But there are two factors which are not taken into consideration by Mr. Wardlaw-Milne. One is that here the constituencies are small and compact; in Burma, they are very big. Here you have the advantage of very good communications. In Burma, we have not those yet.

U Nu: I just want to mention some points in regard to the question of expenditure. When we have a very unwieldy and large constituency, we find that candidates, because they cannot themselves get into touch with all the various parts of the constituency, have to get the same result by other means. During the elections we find that owing to the great size of the constituencies, a good deal of bribery and corruption takes place, because, when a man finds that he cannot get to the north-western corner of his constituency, he naturally has to send somebody else, and either with, or without, his

knowledge things are done which the agent or sub-agents consider must be done, and that is how this element of bribery and corruption has crept in.

Mr. Isaac Foot: Is there not always more corruption with the smallest constituency than with the largest?

U Ni: In a small constituency, a candidate is quite certain that he can see face to face, the very influential person, whoever he may be, with whom he would like to be in touch for the purpose of votes, and so forth; and he can also check the other candidates doing anything wrong, but when a constituency is too big he cannot. For instance, my present constituency, where the population is nearly two lakhs, is too big; and when I was travelling recently in my constituency, where there was a good deal of economic distress, I could not keep in close touch with both sides of the constituency. I kept myself busy with the one side, and could not go over to the other. I feel it very much that I cannot keep myself in touch with my constituents, because it is my duty to get their views if I am to be really representative of the people I represent. I cannot do that, because the constituency is too large, and it means that, what is called a representative institution, is not so in fact. Therefore, we ought not to reduce the number of the members to such an extent that the constituencies will become too large and too unwieldy.

Chairman: What number are you suggesting, U Ni?

U Ni: I think, at the rate of 20,000, the number would be somewhere between 180 and 200—not very far, in fact, from the figure given by Mr. Isaac Foot, who, I think, said 150.

Mr. Isaac Foot: I thought it should be somewhere between 100 and 150.

U Ni: I see. My figure is 200, and the feeling on the matter, at present, is such that I believe both the Government and the people consider that some of the constituencies ought to be divided at least into two, if not into three. Even now there is a strong opinion that some of the constituencies must be cut up, as they are, at present, too unwieldy.

In the Burma Legislative Council, during the last three years—I cannot tell you the exact date—we had a motion before the Council dealing with the working of the Reforms, and, during the discussion I pointed out that, on account of the constituencies being too large, a great deal of bribery and corruption was taking place, either wittingly, or unwittingly, and that we could not get really representative men in the Council. This point was well received by the Government, as well as by the other members of the Council. I feel sure the Government advisers here will be able to look this up while we are discussing this problem; they will find it in the Proceedings of the Burma Legislative Council during the last three years.

Mr. Hall: Could my friend give me an idea of the interest taken at election times, and the proportion of voters who voted, say, at the last two elections?

U Ni: Well, very few I should say, because the Council was totally boycotted by the major and premier political organisations of the country—the General Councils of Burmese Associations. That

is the position. Those who voted were a negligible percentage. Very few voted. I will tell you my actual experience during the last election in my constituency. I understood that 1,000 solid votes would come from a certain place. This is what happened in one place which was considered a stronghold. A few Pongyis and these boycotters came in; they distributed a short leaflet and the whole crowd disappeared; they had to go away. In three places I was promised that I was to get 3,000 votes without any attention. I know the influence of these people. That is the position, My Lord.

Major Graham Pole: Then you Members of the Council only represent a very small proportion of your electors?

U Ni: Yes. The statistics will bear that out.

U Ba Pe: I do not think it is so bad, My Lord. May I explain one thing? It is quite true the priests and some section of the boycotters influenced the voters to a certain extent that many did not vote at the polls. But there is another reason why this percentage is small apart from the boycott. The area of each constituency is very large; communications are very bad; and the time of election is in November when the crop in Lower Burma is not in. There are no roads to go by. In some places you must spend two nights to get to the polling booths which are few in number. That has kept away a large proportion of the voters from the polls. That is why we want smaller constituencies. In addition to the boycott, the figure is in a way due to bad communications. The time of the election is also not suitable for the agricultural population. And of course there is the fact that the new constitution has not yet spread to most of the outlying places. That is why the percentages are small. But you will notice that, in spite of the boycott, which is maintained up to now in spite of bad communications, and so on, the percentage has risen from something like 5 per cent. to 18 per cent. at the last election.

Tharrawaddy U Pu: No, from 6 to 18.

U Ba Pe: In some cases only 5 per cent. turned up.

Chairman: Anyhow, it was not a very heavy percentage of the electorate; we can conclude that.

U Ba Pe: Yes, in the circumstances.

Chairman: May I say, with regard to comparing the numbers, I do not know whether the Members are to be paid. That is a consideration, of course.

U Ba Pe: No, they are not paid.

Tharrawaddy U Pu: They are paid expenses.

U Ba Pe: There are two classes of Members. Members residing in Rangoon do not receive anything, but Members from outside Rangoon are entitled to travelling allowance only and no other allowance.

Mr. Cowasjee: All your District Members are paid.

U Ba Pe: Yes, but Members residing in Rangoon do not get anything.

Chairman: But now you are speaking of the present state of things. I am really asking the views about the future; because

you have to remember that this Legislature will have a great deal more work to do. You have, no doubt, considered that point when saying that, though they will sit longer, they will get no pay, except purely travelling allowance. Is that so?

Tharrawaddy U Pu: That is so.

Chairman: No doubt opinions will be expressed upon that because to some extent, though not to a great extent, it does govern the idea of whether you shall have a large or smaller House.

Sir O. de Glanville: My Lord, may I make it clear that the District Members got Rs. 20 a day; that is Rs. 600 a month.

Chairman: What do you call the District Members?

Sir O. de Glanville: People outside Rangoon Town. They get double first-class fare to travel to Rangoon, and in addition they get 20 rupees a day while in Rangoon. That means, when the Council is sitting, 600 rupees a month, equivalent to about £45.

U Ba Pe: That is only during the session.

Chairman: The question has to be weighed, of course, as to whether or not that will be continued or increased when the responsibilities are increased and there is more work.

U Chit Hlaing: The Council sit, I think, only for about 40 days in the year.

Chairman: You are speaking of what happens now. We are not talking about the present position, but about the future, when you may have more sittings to endure. I am not going to suggest any Indian analogy, but it is interesting that, in the Indian discussions, the largest number proposed, I think was 300 for the Assembly. That was one representative for a million. Burma, I think, has about 14,000,000 inhabitants.

Sir O. de Glanville: The 14,000,000 includes the Shan States.

Chairman: Well, let us say 12,000,000. According to the same analogy, there would be only 12 members in the Burmese Assembly. That, I am bound to say would seem rather small, but at the same time I am suggesting that India, with its enormous complexities and varieties of conditions and people, is content with one million per member, and there is a very great difference between that and a member for every 20,000.

Mr. Isaac Foot: The population for each constituency at present is 150,000. Could someone enlighten us as to whether the area of a constituency is not in fact at present about two-thirds of the area that is administered by the District Administrator, who is called the Collector. His area is in fact larger—about one-third larger—than the area of a constituency. What is possible for him to deal with, does not seem to us to be too large an area for a member to represent.

Chairman: Does any other Delegate wish to speak on this question of size?

Tharrawaddy U Pu: I wish to support the member who asked for a membership of 180 to 200. That is absolutely necessary. In the constituency from which I come, Toungoo, as you will see from the schedule which has been distributed, there are three subdivisions and two or

three townships in each subdivision; and the population with which I have had to deal is 224,000. The number of electors is not given in the schedule; but I take it the electors would be not less than 50,000 or 60,000. The area was so wide that, at one time during my election campaign, I had to travel by boat along the streams running from north to south, and it took me about seven days to go from the district headquarters to the furthest township of the sub-division. It is practically impossible for me to keep in touch with my constituents in so large a constituency. Communication in Burma is still very bad, and, as U Ba Pe said just now, sometimes we have to travel through the paddy fields. In some cases it is about ten miles from some villages to the polling booth, and that obstacle has kept away a large number of electors.

Chairman: Roughly speaking, then, you are in favour of what number?

Tharrawaddy U Pu: I am in favour of 180 to 200. It can very easily be done by taking away the officials. Now, we have 14 officials out of 103, and non-officials 21. We have rural elected members 49, urban 22, and all-Burma 2. That would be 73, so we can make about 150 if we double the number of members for each constituency. For instance, in a place like Toungoo, there are two members for Toungoo North and two for Toungoo South. That number can be doubled, making four. Prome also could be doubled. There are many constituencies where you will find that can be done.

Then my friend Sir Oscar said our present Chamber of the Burma Legislative Council is very small, and would hardly accommodate the 125 members suggested by this memorandum.

Chairman: I do not think we need dwell too much on the size of the existing Chamber, need we? That is rather a small point.

Tharrawaddy U Pu: I am very glad such an argument does not carry weight with you.

Chairman: It carries weight, but it does not carry a very heavy weight.

Tharrawaddy U Pu: That little weight I want to remove. The people's rights should not be sacrificed by the mere fact that the present Chamber in Burma is too small.

Chairman: I do not think you need dwell on that very much, and I think Sir Oscar only put that forward as a minor argument. I think we can leave that point.

Tharrawaddy U Pu: Now, about the percentage of voters. In 1923 only 5 per cent voted, because we, at that time, were not at the election. At the next election there were 16.9, according to Mr. Lister, and, in 1929, 18 per cent only. At the next election I am sure you will find many more going to the polls. Therefore, this small percentage, I hope, will not stand in the way of extending our rights and privileges.

Lord Winterton: I really think we have almost exhausted this subject of representation. I know it is a difficult position for you, My Lord, but I do not see that we can do anything but agree to differ on it. Personally, I could not agree to anything like the figures suggested on the left. I do not believe it would be in the interests of

Burma, or in the interests of the electorate. The highest figure I could accept would be the figure which Mr. Foot, I think, put forward as a possible compromise, namely, 150, and I would prefer to see the figure even smaller. I have listened with respect to what has been said about the difficulty of getting about, but I do not think it is greater than the difficulty which many members have in British Dominions overseas.

I do not believe that this swollen representation would be in the interests of the people of Burma. I suggest this is one of the subjects we could discuss almost indefinitely without coming to any agreement. The root fact of the matter is that there is a complete cleavage of opinion on the question. One side wants about 200 members, and the other side would prefer 120 or 130, or at the most 150. I hope it will be possible for us now to pass to another subject.

Chairman: I do not suppose we shall be able to arrive at an exact agreement about numbers, and, of course, in that case, I shall report that the views varied between two points, and give what the average might be.

(ii) *Life of the Lower House.*

Chairman: Perhaps I may have your views on the length of the period for which the Chamber should be elected?

Tharrawaddy U Pu: We suggest five years.

Major Graham Pole: It is three years at present, is it not?

Lord Winterton: We shall probably be unanimous here. I do not know what Sir Oscar thinks, but, in my view, five years is a reasonable time.

Sir O. de Glanville: On this side, I think we are all in favour of five years.

(iii) *The Official Bloc.*

Sir O. de Glanville: On my right I know the opinion is unanimous for the total abolition of the official bloc. I, personally, have carefully considered the point and so, I think, have all the other Members. We are endeavouring to frame a Constitution which will give responsibility to the Legislature; and the official bloc, I am afraid, tends to prevent that sense of responsibility from growing and developing. Therefore, I am in favour of the abolition of the official bloc. I know, from the experience that we have had, that the presence of officials in the Council has been of immense value to us; it has been a steadying influence, and it has helped, if I may say so, to educate us, as none of us had any experience in Burma of a democratic Council. The experience that we have gained has been very largely aided by the official Members. But, in the new Constitution, I think we must agree that the official bloc must go. Their abolition, of course, will deprive us of a very great deal of useful advice and guidance, and it may be necessary, in considering the Council, to consider at a later stage whether the financial advisers and other experts should be allowed to speak in the Council, but not to vote. That, I think, would be a possible solution of the difficulty and of the disadvantages arising from the absence in the Council of

officials. But on that point, My Lord, I need not dilate. We will come to that, I take it, later; but I should like to state my opinion now, that with regard to the official bloc, I think it should be abolished. I am dealing with the points one at a time. The nominated Members come under a different head, and possibly it would be better, as we may arrive at unanimity on this point, to deal now only with the official bloc.

Chairman: Could you tell us exactly what you mean? We want to be quite clear as to what you do mean by the official bloc.

Sir O. de Glanville: My Lord, the official bloc consists of 16 officials who vote as a bloc with instructions given to them beforehand. They are not, in our Council, free to speak or to express their individual opinions. They speak as directed by Government and they vote as directed by Government. I cannot see that that would be reconcilable with a Ministry having joint responsibility, should there be 16 permanent officials who would vote as directed, I take it, either by the Governor or by the Ministry. Certainly it would not do to have in the Council, Ministers responsible to the Council and officials who were not responsible in any way. So that, I think, if we are going to frame a Constitution with joint responsibility of Ministers, we must have only responsible Members in the Council and no officials.

Mr. Isaac Foot: On that, My Lord, may I make a reference to what is the general conclusion arrived at by the Statutory Commission?

Chairman: Yes, I think it would be very useful for the Conference to know.

Mr. Isaac Foot: It was agreed that, if there was to be a real transfer of responsibility, the official bloc should go. That was dealt with in paragraph 86 of the second volume of the Statutory Commission's Report. It is introduced in this way, with the heading:—

“ Official bloc not to be retained.”

That is, of course, dealing with India and not with Burma in particular, but inasmuch as responsible Government is sought in future here, as there, I think it is relevant.

“ Before dealing with other classes of representation we will now discuss the official bloc. No part of the Constitution set up by the Reforms has, in actual operation, departed so widely from the intentions expressed in the Joint Report. The expectation was, that official members of the Legislative Councils would abstain from voting on subjects which were transferred to the control of Ministers, and that, except on rare occasions, they would have freedom of speech and vote. In fact, the official bloc has been constantly used to support both sides of the provincial Governments; Ministers have relied upon it to maintain them in office when the majority of elected members was voting against them, and it has constantly happened in some Provinces, that necessary supply, and important legislation have been passed only with the help of these official votes.”

They go on then to deal with the matter generally. When the matter was discussed at the Round Table Conference itself, there was unanimity of opinion that responsible government and the retention

of the official bloc were incompatible, and, of course, the question will arise on reserved subjects, which have to be dealt with, that there must be some power to have representation of the Government in the **Assembly**—not representation which involves voting power, but such representation as will enable the Government case to be put.

Lord Winterton: I associate myself with what Mr. Foot has just said. The arguments are perfectly sound. No doubt, when we come to a question of official representation—or, rather, the means by which the views of the Government shall be made known in the Assembly, which I presume would be through nomination—we shall have a lead from the Parliamentary Under-Secretary, or the Secretary of State. It is most important that H. M. Government should express their views on that point. It is quite obvious that the Government must be represented so long as there are reserved subjects. Subject to that qualification I personally support what Mr. Foot and Sir Oscar have said.

Chairman: Sir Oscar, in dealing with the official bloc, and without, for a moment, referring to the question of nomination, would you object or think it unwise to have officials, not as a bloc, nor as having any right, we will say, to vote, but being there to speak if necessary and give advice when required to the Assembly?

Sir O. de Glanville: I think I mentioned that. I am inclined to think that it would be necessary for us to have the attendance of officials not only to represent the views of the Governor or of the Government, but also to deal with important matters such as Finance. One important case is, of course, the case of the Finance Member, who is an official. If we have a non-official as the Finance Minister, he must, in my opinion, have an official adviser, who will be an expert in finance. I do not think that we have in Burma, a non-official who could frame the Budget. That is my opinion. I think we should have to have an expert Financial Adviser, and I would give him the right to sit on the Council and speak, but not to vote. The powers of that Financial Adviser are a matter of considerable importance.

That will arise, not, I think, under the present head, but I am in favour of certain officials being present in the Lower House to speak, not to vote. I think that answers Your Lordship's question.

Chairman: Then, as regards the official bloc, I think the views that have been expressed so far go to the extent of desiring the removal of the official bloc in its present form.

U Ba Pe: Well, as far as the official bloc is concerned we say "yes" to the abolition, but we must advance our reasons too, I think, because they are very good reasons that will have a bearing on another question, the question of nomination.

Chairman: That comes in later, does it not? You are agreed, are you, about the abolition of the official bloc in its present form?

U Ba Pe: Yes, not only in its present form; I am opposed to having an official bloc in any form in the House.

(iv) Presence of Officials.

Mr. Wardlaw-Milne: I did not desire to start this discussion, but I think perhaps it would be well to formulate something, so that the

Conference can give its view. I certainly think—assuming, as we have now agreed, that the official bloc as a voting power should be abolished—that the Government's views will require to be put forward, as was suggested by Sir Oscar, by officials lent, if I may use that expression to the Assembly, for the time being, to give advice, either as legal advisers or financial advisers, and without a vote. In addition to that, however, it seems clear to me, reading of the conditions in Burma and knowing something of them, that it will be necessary for certain areas, certain districts, and perhaps certain communities, not minorities necessarily, to have some form of representation which they will not get by any method of election. There is also the consideration of the interests of certain classes of women, and there is the question of labour. They may not get representation in the ordinary way by election, and for that reason alone, in addition to the necessity for the Government securing that their views are put forward, I think there will have to be a certain number of representatives nominated; and I suggest, for the purpose of consideration by the Conference, that that should be 10 per cent of the whole, and that 10 per cent should be nominated by the Governor for the purposes I have named.

Mr. Isaac Foot: My Lord Chairman, before we pass to the question of nominated members, which is of course an important matter, could not we deal with the question of officials having a seat in the House apart from nominated members? I understand from Mr. Wardlaw-Milne that he is considering the representation of special interests, and so on. That would come under nominated members, but I suggest we should now address ourselves to the question of whether or not there should be in the Assembly two, three, four, or whatever number may be decided on, officials, whose business it will be to act as the spokesmen of the Governor on reserved matters, though without votes in the House. I think it would be generally agreed that they should not have votes; the question is as to their having a seat in the House. I think it would be of great advantage to all concerned if, without voting power, some official representation was there, not for the purpose of restraining, not for the purpose of repression, but for the purpose of assistance and for establishing a very ready liaison between the Governor and the Assembly.

Mr. Wardlaw-Milne: I should like to say that I rather agree with Mr. Isaac Foot that this is a separate point. Having abolished the official voting bloc, before you come to the question of nomination to represent the interests I have mentioned, there is the question of putting before the Assembly the Government's views and their reasons for introducing Bills, or whatever it may be, and I think that could be met in the way Mr. Foot has suggested.

I suggest that what it comes to is this, you will probably want a legal adviser, who will be without a vote but permanently in the Assembly, and you will probably want a financial adviser, also without a vote. Then, I think, according to the nature of the Bill and the part of the Government concerned, you will probably want some official from the department concerned, differing from day to day, in the Assembly to give advice. But I think that meets Mr. Foot's point. That I put clearly and separately apart from the question of

the nominated Members, which I have referred to, who would have votes.

Chairman: I think it would be an advantage if we could deal with the smaller and narrower point first of the special representation of the Governor by these officials who would be able to make statements and so on, but not vote.

Mr. Wardlaw-Milne: Just to put that in a concrete form, I suggest there ought to be a legal adviser and a financial adviser permanently attached to the Assembly; and in addition to that, that the Government should appoint the Member or Secretary in charge of each Department to attend—different people on different days according to the business of the House. None of these people should have votes at all.

Major Graham-Pole: Are these people officials?

Mr. Wardlaw-Milne: All officials.

Major Graham Pole: That is to say, I.C.S. officials?

Chairman: They are not necessarily I.C.S.

Mr. Haji: To clear up my own mind on this matter do I understand Mr. Wardlaw-Milne to be suggesting that, though there will be two sets of subjects in the transfer of power—one over which power has been completely transferred, and the other set of subjects which will be reserved, that it is his intention that Government officials in the House on behalf of both those sections sitting there as advisers, are not to have a vote?

Mr. Wardlaw-Milne: That is my view.

Mr. Haji: No vote for a Government nominee who is there for the Army for example, and no vote for the Government nominee who is there for, say, Education, Health and Lands, or any of the Ministerial subjects. Am I understanding you correctly that Government nominees representing both these sections would have no votes?

Mr. Wardlaw-Milne: May I answer that, My Lord?

Chairman: Certainly.

Mr. Wardlaw-Milne: Perhaps I have not made myself clear. I have not touched on the ruling which our Chairman gave a moment ago, or, rather, I have left the subject of nomination altogether, so as to come to that separately. Before we come to the question of who is to be nominated, whether they be officials or non-officials, or what powers the Government or the Governor is to have in the way of nomination, I am dealing with what the Chairman described as a narrower point, that is to say, the attendance of officials to represent the views of Government. I have suggested that these should have no vote; that they would be officials in the ordinary way attached to the Public Departments, the Bills or Measures of which are under discussion by the Chamber. The only thing I further suggested was, that there might be two permanently attached because of measures which are constantly coming up; one who would be a legal adviser and helpful to the Chamber in that sense and another in connection with Finance. Otherwise I think from day to day, according to the business, you may have officials attached to the particular Department concerned; and they should not have votes.

Mr. Haji : Then it is your opinion that among the total of ten per cent. of the House which is to be occupied by nominated members, some of them will be officials. Is that your intention?

Mr. Wardlaw-Milne : I have not touched on the nominated Members. This is quite apart from nominated Members altogether.

Mr. Cowasjee : My Lord Chairman, on the first question as to whether the official bloc should be retained in the Council for the purpose of voting, I am in agreement with the view that they should not be allowed to vote.

Chairman : We have discussed that, have we not?

Mr. Cowasjee : Yes, but I am not quite sure whether you have finally come to any conclusion on that.

Chairman : I think so.

Mr. Cowasjee : Of course, I am not in conflict with that view ; but on the other question as to whether the official bloc should remain on the Council for the purpose of advancing the case of the Government or presenting the case for the Government, the matter seems to me to be one of some difficulty.

Chairman : I do not think I would call it an official bloc, because that is rather confusing. We have swept away the official bloc, and if you talk about using the official bloc in another capacity I do not think it tends to clearness. I think *Mr. Wardlaw-Milne* stated the position quite clearly as to the presence or non-presence of those officials. Perhaps you could deal with it on that basis.

Mr. Cowasjee : The question is whether permanent paid officials of the Government should be allowed to remain in the House for the purpose of addressing the House in respect of any particular matter with which they are conversant. I submit that that is a matter of some difficulty, when you have a responsible Government with Ministers in the House who will be there as heads of separate Departments. Is it proposed to have paid officials to supersede the responsible Minister?

Chairman : I do not wish to stop your discussion, but that was not at all the course *Mr. Wardlaw-Milne* suggested.

Mr. Cowasjee : I am not keeping to *Mr. Wardlaw-Milne's* suggestion, but am arguing on the general question before the Conference, as to whether permanent paid officials should remain in the House for the purpose of addressing it. Take one particular subject, the matter of education. Supposing we have a Minister in charge of Education in the House. Would it be feasible that, behind the back of the Minister in charge of Education, some head of the Education Department, who remains in the House as the head official of that Department, should address the House and advance his reasons and arguments for a certain course which may not be the reasons and arguments of the Minister? These are matters which have to be considered. Personally, I would welcome the presence of experienced officials in the House, because, after all, their speeches would be instructive and would afford information to members of the House who keep an open mind and are ready to be convinced on any particular point. But when we grant responsible self-government I think there would be difficulty if a paid permanent official remained in the House to discuss a particular

subject without the approval or consent of the Minister in charge. If we are going to have a permanent paid official in the House, he must be there with the approval of the Minister in charge of that particular Department.

Mr. Isaac Foot: Would Mr. Cowasjee answer this question? Supposing, as I understood, the proposed expert (rather than the official) was only there in so far as he represented the reserved subject. He spoke just now of education. That would be a transferred subject. You cannot have a Minister for Education with responsibility, and at the same time a Government official who may be expressing contrary views in the same House. But would Mr. Cowasjee agree that it would be an advantage to have a spokesman there on reserved subjects?

Mr. Cowasjee: Undoubtedly there must be somebody to represent the reserved subjects. As regards the presence of a legal adviser, perhaps Mr. Wardlaw-Milne does not know that in Burma, as here, the Government has its legal adviser, who advises it generally on all legal matters. Therefore, it will not be necessary to have a legal adviser specially attached to the Legislative Council.

Chairman: I do not think there was any misunderstanding on that point. Every Government has Legal Advisers. But the point is whether it would be useful for the House itself—quite a different thing from the Government—to have somebody there with whom they could consult. Very often members of the House find themselves at a disadvantage.

Mr. Cowasjee: According to our present system, the Government Advocate is a member of the Legislative Council. But supposing we are going to have this system of nomination, the Government Advocate might be nominated as an expert Legal Adviser of the Legislative Council.

Chairman: Of the Government, not of the House.

Mr. Cowasjee: Well, he may be of the House also. But that is a matter which really comes under the second category, when we discuss the question of nomination.

Chairman: My idea of the second category is that it refers to nomination. We are considering whether it would be important to give the Governor power to nominate persons to represent his interests. I was rather putting that in a different category.

Mr. Cowasjee: For practical purposes I do not see that the presence of a legal adviser in the Council itself during the sittings of the Council would become necessary. Supposing a Bill were introduced by Government, it would have to be approved by the Legal Adviser of the Government. If a private Bill is introduced, it will have to pass through certain tests. On the question of any procedure the President of the Council would be the only authority to decide, so I do not see, for practical purposes, how the presence of a legal adviser would be required during the sittings of the Council.

Lord Lothian: May I ask a question? I should very much like to know what the views of the Conference are on a point already discussed, but perhaps I may define it a little more clearly. Let us assume for the moment that there is going to be a division of power of

some kind—we need not discuss for the moment where the line will be—that will mean that in certain respects the responsibility will be ultimately through the Governor to Parliament, and in other respects the responsibility will be to the Burma Legislature, and that responsibility will be exercised through Ministers who have got between them a majority of the Council. In those respects their own policy would presumably be presented to the Legislature by the Ministers themselves—that is, will be their own responsibility—but there is this further question on which I should particularly like the views of the Conference within the reserved sphere. Let us take, for purposes of illustration, the Army. If you take the Indian precedent, a certain sum will be placed on the consolidated fund, non-votable, in order to give the Governor the absolute assurance that the finance necessary to maintain the defence of the country will be there, irrespective of party opinion at any one moment; but obviously the Legislature will wish, in some respects, to discuss those matters. Now, when that sort of question is under consideration, what is your view—that the views of the Governor should be presented through the responsible Minister, or that he should have an agent of his own to express to the Legislature the views which he has on the subject? The Government will have its own views on the best way, but I should very much like to know what the views of the Conference are on that point. On those matters which are not under the control of the Legislature, but for which the Governor will be responsible to Parliament, how are the views of the Governor to be presented to the Legislature—through the responsible Ministers who are in that respect not responsible, or through some agent, some representative who may or may not have a vote, who speaks in the Legislature or appears before the Legislature and states his view?

Lord Winterton: I confess that I am rather astonished at the speech to which we have just listened. I am afraid I must ask a leading question. Does Lord Lothian contemplate—because I certainly had not contemplated it—that the reserved subjects would come before the Legislature at all?

Lord Lothian: No; what happens is this, that in certain circumstances there is a certain amount of consultation with the Legislature about the question of defence. I do not think it is contemplated that the Legislature under no circumstances should be able to express any views at all on the question of defence. The responsibility is wholly in the hands of the Government, and therefore the matter is one of responsibility to Parliament, but opportunities are always given for discussion.

Lord Winterton: That is all very well. You say opportunity is always given. I must make clear my own position. I do not know whether I am speaking for my colleagues, but I should contemplate with horror a sort of system which has all the evils of the dyarchical system.

If you are going to allow the Legislature to discuss it it ceases to be a reserved subject, and what will happen? The unfortunate Minister must be responsible to the Legislature or not. I venture to hope the Government will not make a definite statement on that, because I shall have to oppose them if they do. I hope there will be

a complete division of functions in this regard. Of course, circumstances might arise, such as some national crisis, when it might be necessary to make some statement; but that there should be a Minister or any representative between the Legislature and the Government would be, I think, a mistake. A reserved subject must be a reserved subject, and I should contemplate with horror the Burma Legislature having anything to do with this.

Mr. Hall : May I ask Lord Winterton a question? If there are to be any reserved subjects, and they are to be treated as he suggests, does he suggest that officials should deal with transferred subjects in the Legislature?

Lord Winterton : No. That is rather a different point. You are referring to the point raised by Mr. Wardlaw-Milne?

Mr. Hall : Yes.

Lord Winterton : I should like to hear further discussion on that point. I was rather impressed by what Mr. Cowasjee said on that point, as to the difficulties which would arise, but I think that Mr. Wardlaw-Milne's suggestion was really within a very narrow area. Personally, if it was objected that it would hamper the Ministers in any way in dealing with the transferred subjects to have an adviser in the Assembly, then I should not be prepared to support the proposal.

Mr. Hall : That brings it, if I may say so, to this point, arising out of the discussion which has taken place between Lord Lothian and Lord Winterton as to whether it is really necessary for reserved subjects, if there are any, to be discussed in the Legislature. If there are reserved subjects, and if they are not to be discussed, then I think in the course of the discussion it was suggested that there was scarcely any necessity for officials to speak from the floor of the House upon transferred subjects. The whole matter ought to be decided as to whether reserved subjects should be really reserved to the Governor and not be the prerogative of the House itself.

Lord Winterton : What my hon. friend means is that you want to keep the two things distinct—reserved subjects and transferred subjects.

Mr. Hall : Yes.

Chairman : I am not sure whether I clearly understood the first proposal that was made, because, I think, it was misunderstood by Mr. Cowasjee. I did not understand that the suggestion was that, to take education as an example, you would have a Minister for Education and also an education expert, possibly from the department, who would be able to get up and contradict the views expressed by his chief. I do not think that was suggested because that would clearly be impossible. What I thought was intended when the suggestion was made was this, that there might be one or two general advisers, legal or administrative, in the House with the right to speak and give the benefit of their general advice and explanations to the House on certain subjects, but not specific representatives of certain administrative departments which were under the charge of a responsible Minister. I do not know whether that is what you meant?

Mr. Wardlaw-Milne : That, I think, expresses it. My object was not to put into the Assembly someone who would be a stumbling block

to the work of the Minister; quite the contrary. What I was anxious to ensure was that the Assembly had any advice it required. I have been very much struck by the fact, which has been mentioned already, that sometimes an Assembly is in considerable difficulty as against the position of the Government, if I may use that expression. The Government have every possible advice, and sometimes the Assembly does not have it. My whole object was to try to ensure that, especially in the early stages, they should have the advice they required. I certainly think that it is desirable apart from that, when the Government are putting forward matters in which they are responsible—not necessarily in which the Assembly has no responsibility in the sense in which Lord Winterton spoke, but matters of what I might call general interest but on which the final decision may, under some heading, be reserved to the Government, that this should be so. I disagree to that extent with Lord Winterton. I do not want in any way to run counter to his suggestion that where the Government have a responsibility it must rest entirely with them; I entirely agree with that; but at the same time, to this extent, I agree with what Lord Lothian has said, that there are certain subjects which are bound to come up in general discussion. They may impinge upon a matter on which the Government has a final decision; and, in any case, there may be occasions on which the Government desire to put their view before the Assembly on any general subject. In that case they ought to have the right, I think, to nominate their official in charge of that Department of Government to put their views forward. But it is merely a proposal in my view largely for the purpose of helping the Assembly. I am not pressing it if the Conference do not agree that it is desirable.

Mr. Harper: May I say, in reply to Lord Lothian, that if these reserved matters are to be discussed in the Lower House I think the Governor should be represented by someone other than a Minister. I think the Minister himself might be in rather a difficult position; his own position might not be understood. Whether these matters are to be discussed or not seems to me to be a very difficult question. I think the experience in the Central Legislature in Delhi, for example, has been that there have been endless discussions about the Army. I do not know whether it is going to be possible to keep questions or discussions on reserved subjects out of the Lower House entirely. If one looks at it from point of view that responsible Government has been promised in successive stages it seems to me that one stage might be a further transfer of reserved power. I mentioned the phrase the other day: "the fullness of time," for which I was taken to task by my friends. It seems to me that at some time in the future one stage might be a further transfer of reserved power. I do not know how soon we shall see that day, but whether we can ever get to that day without ever discussing these subjects in the Lower House at all, I cannot foresee. I do not feel in a position to give a definite opinion on the subject, and I should like to say we have an open mind on it, but I do not think that we can contemplate saying now that these subjects will never be discussed or any questions asked about them before that day. If that is to be the position, then I think the representative of the Governor should be a direct representative, an official, and not a Minister responsible to the House.

Lord Mersey : My Lord, perhaps I may add another point to that; it is quite conceivable that the Government, itself, may wish to introduce legislation with regard, for instance, to the Army. It is quite conceivable. Of course, the Governor would have his over-riding power, but the Government might prefer to introduce legislation. If they did, obviously it would be necessary for the Governor to have some direct representation. The position as to a reserved subject seems to me not unlike the position of the present House of Lords in this country with regard to Finance. They have no power to vote or to refuse supplies, but Finance Bills always come up before the House of Lords, and there is a very considerable expression of opinion on general principles and even on particular portions of them. I imagine that it is not the wish of any one to preclude any discussion at all on general principles of some of the reserved subjects; and, as I say, the Government itself might sometimes be anxious to obtain the opinion of the Assembly upon them. For that reason I think that such an official representation as has been suggested would be a very useful thing.

Major Graham Pole : But, my Lord, I rather understood what Mr. Wardlaw-Milne was referring to was not reserved subjects, but possibly transferred subjects.

Mr. Wardlaw-Milne : No; reserved subjects. In transferred subjects you have the Minister.

Major Graham Pole : That is what I thought.

Chairman : I thought Mr. Wardlaw-Milne meant something a little different. There are two subjects that, I understand, have become somewhat mixed. One of them opens up rather a wide question, and that is, whether the Governor should or should not have representatives in the House who would be able to give expression to his views on subjects reserved, if any. That, as I say, opens up a wide question as to the extent to which the Assembly should or should not have power to deal with reserved subjects, and, if so, in what form; whether by discussion or resolution or by other methods. I did not think that we had really reached that. I understood that Mr. Wardlaw-Milne was making a narrower point, namely, whether one or two general advisers would be useful on certain subjects, to sit in the Assembly, to speak when wanted, not to vote, and not necessarily to be members of any particular Department transferred or otherwise.

Mr. Wardlaw-Milne : May I make my point clear. You, My Lord, have expressed it admirably. What I have been suggesting are two separate things. I think—and most members here who have had experience will bear me out—that an Assembly, especially a new Assembly, is very often in some difficulty *vis-a-vis* the Government proposals, and I suggested that it would be well for them to have two advisers permanently attached to the Assembly. One of the advisers might perhaps deal with finance, and the other with legal matters. Perhaps one adviser would be enough, but it is desirable to have someone whom the Assembly could consult and who would be ordinarily and regularly in attendance at its meetings. In addition to that, on reserved subjects, I have suggested that the Government have the right to send the official in charge of any Department which is touched upon in any discussion into the Assembly to sit there and speak. That official would change according to the matter which comes before

the Assembly. I entirely agree that there must be no question, if it is decided that there should be reserved and transferred powers, as to the authority, but I do not agree with Lord Winterton that it is not possible that matters which impinge upon reserved subjects will be under discussion. May I give an illustration? You might have propositions before the Assembly to rebuild the Rangoon Docks, or build huge docks in Rangoon, and there might be a necessity for the Government to point out that the measure proposed would in some way conflict with their proposals for the defence of the port. I give this as a far-fetched illustration. It will then be necessary for the Government to place before the Assembly certain facts. This does not affect the Government's authority, but it does make it clear that they must guide the Assembly before the latter embarks upon something which is impracticable. In a case like that, or in any subject in which the Government want to put their views before the Assembly, on a matter over which they have the final authority, they should have the right of sending down the official connected with that Department to explain the position, and I cannot see but what the Assembly would benefit.

Mr. Campagnac: Would you allow the Legislature to make recommendations to the Government on a reserved subject?

Mr. Wardlaw-Milne: No, that is a different matter altogether. That is a question of the power. I very carefully avoided dealing with the question of powers. That will arise when we come to decide whether there are to be separate powers. But it does not, surely, alter the fact that it would be to the benefit of everybody that the Government should be able to put their views forward.

Mr. Isaac Foot: Is there not a little confusion on this point? I understand that there are to be transferred subjects and reserved subjects.

Chairman: We are assuming that for the purpose of the discussion.

Mr. Isaac Foot: Assuming that there are to be transferred and reserved subjects—

Tharrawaddy U Pu: We have never been told to assume anything like that.

Mr. Isaac Foot: We have never been told either, and I do know any more about that than Tharrawaddy U Pu; but assuming there are reserved and transferred subjects, may there not be reserved powers in relation to a transferred subject—I mean, on finance for example? Finance would be, generally, a transferred subject, but as to the transferred subject of finance some reserved power may be established, inasmuch as the Governor is generally responsible for the financial stability of the country. Upon that, assuming that there may be a reserved power in relation to a transferred subject, ought there not to be some means for the Governor to put before the Assembly his considered opinion in relation to that matter in which the whole interests of the country may be concerned?

Mr. Wardlaw-Milne: May I say that Mr. Foot has given another and a better example than mine.

Chairman: He has done more than that; he has raised a fourth point in addition to the three. Before we adjourn, as some rather

bigger points have been raised, I should have liked to settle the question as to whether or not the Conference wishes to express a view or to come to a conclusion as to these general advisers, apart from those who are there to express the Governor's views, if any, either on reserved subjects or on the control he might exercise over transferred subjects.

Major Graham Pole : I think there is a good deal more to be said on that.

U Ni : While following this discussion I feel that we are discussing a point which we ought not to be discussing just now, because we are encroaching too much on the other side—the powers of the Executive and so forth—and I do not think we shall be able to do justice to this question without anticipating or prejudging too much, the very important questions which we shall have to discuss later. If we discuss this particular point in the way in which it has just now been put forward, I feel that we are prejudging our case before the opportunity is actually afforded to us.

Chairman : I appreciate that point. It is only an example of the hundred-and-one difficulties that there are, which we met over and over again in discussing the Indian constitution, of not being able to discuss any subject in isolation, because almost every subject affects almost every other subject. That is why, in my observations in the opening discussion, I said we must regard, anyhow for the present, our views as provisional, on the subjects which we deal with piecemeal, because it is impossible to deal with the matter as a whole. I quite appreciate your point that you may have to discuss it in connection with the Executive, but I think it has a legislative side, and I think we must discuss it, although our views may be altered when we come to discuss the executive side of it.

(*The Committee adjourned at 1-12 p.m.*)

Proceedings of the Fourth Meeting of the Committee of the Whole Conference, held on Thursday, the 10th December, 1931, at 2-30 p.m.

HEAD 3.

CONSTITUTION OF THE LOWER HOUSE—*continued*.

(iv) *The Presence of Officials or Advisers—continued*.

Sir O. de Glanville : My Lord, we were dealing yesterday with the question of officials or representatives of the Governor sitting in the Lower House. Dealing first with reserved subjects or subjects that may be reserved, I feel very strongly that ordinarily there should be no discussion of them in the Lower House, and that the money required for them should not be votable; but there are, and will be, occasions on which it may be considered necessary that some of the reserved subjects should be discussed, and I think the difficulty may be got over by providing that no reserved subject shall be discussed in the Council except with the consent of the Governor. We have a very similar system now in the Provincial Councils with regard to Central

subjects; questions are not allowed to be asked about them, resolutions are not allowed to be put forward on them, and we have no opportunity whatever of discussing them except by permission of the Governor. On certain occasions questions have been allowed, and in one particular instance dealing with railways, when the Secretary of State wanted to know the opinion of our Council on it, a resolution was brought forward, not only with the consent of the Governor, but at the request of the Governor, and we discussed a purely Central subject, the question of railways. I think the difficulty which was spoken of by both Lord Winterton and Lord Lothian, might be reconciled if we had a provision that reserved subjects shall not be discussed except by the consent of the Governor.

Now, if reserved subjects are to be discussed to that modified extent, obviously somebody must be in the Council to represent the Governor or his views; I think he should be entitled to appoint either an official or non-official, and to be given absolute liberty to appoint whom he pleases to be a member of the Council while those subjects are under discussion. If questions are allowed by the Governor on reserved subjects, then I think the Governor should send somebody to answer those questions. I do not think that the answering should be left to a Minister. I think that would completely do away with any difficulty that members may have on this point.

As regards representation of the Governor or on special occasions of people who are not Members of the Council, we have now a system under the Government of India Act with regard to particular subjects which require expert advice; persons may be added to the Council for the limited purpose under discussion. An example of that occurred when a Bill was brought into the Legislative Assembly to amend the Indian Companies Act. Expert advice was very necessary and a chartered accountant was appointed a member for the purposes of that Bill. The same thing has happened in the Burma Council. When we were discussing municipal reform, the chief executive officer of the Corporation of Rangoon was added as a Member for the purposes of the Bill. On another occasion, we had a Bill relating to tube wells, a very technical subject about which nobody knew anything, and a sanitary engineer was appointed. So that, in all those cases in which special advice is required, I think power should be given to the Governor to nominate persons to assist the Council. Those persons would sit in the House and would speak, but would not vote for the subject for which they were appointed.

On the reserved subjects, if the course I suggest is adopted, there would be no permanent official sitting in the Council at all. The official would only come in as necessity arose. But when we come to the transferred subjects I think there is a little more difficulty. Obviously the proper person to speak on a transferred subject is the Minister in charge of it. I do not think it would help us to have in the Council officials speaking on the same subject, except in the special circumstances to which I have alluded—except in a case possibly of Finance. In speaking of Finance I am speaking of finance as we have it in Burma now—Provincial Finance. When we come to the reserved portion of it, of course it is very different; but with regard to Provincial Finance I think it will be necessary for some years to come anyway,

that the Minister in charge of Provincial Finance, should have an expert adviser; that expert adviser might permanently be attached to the Lower House and only have the right to speak on the innumerable subjects that are constantly arising in relation to Finance. There may be other cases, but I would say this, that I do not rule out the presence of officials, but they ought to be limited as far as possible. That is all I wish to say on that particular subject which was under discussion yesterday.

U Ni: On a point of order may I be allowed to record my definite protest. I feel that I have been called upon to meet a point before I actually know my position. I feel that I have been called upon to make up my mind whether there will be any subject reserved or whether there will be any subject transferred and so forth; and I think that without making up my mind as regards the transference of power I shall not be able to say anything on this particular point about the Governor's representative in the Council, or whatever it may be—the point that has been raised since yesterday and is still going on now. Yesterday I took an opportunity of acquainting this Conference by making a statement in connection with this to some extent, but now, after raising this protest, I would submit that this point may be taken later when we have decided what sort of power will be transferred and what sort of power, if any, will be retained. These are highly important matters on which we have not yet made up our minds, and upon which the Conference has not had an opportunity of making up its mind. I wish to lay emphasis on this point, because it is one of the most important points, I should think, for which we have come here. It refers to a point which concerns the transference of power from the present Government to the future Government, so I beg of you, My Lord, to allow this point to be taken later when we have discussed the subjects that will be transferred and the subjects that will be reserved, if any, as I do not want to pass any judgment before the Conference has actually applied its mind to the matter. I would beg of you, My Lord, to allow this point to be kept in abeyance for the time being, and discussed when we know who will maintain the portfolios of the various subjects. Before we know that actually, I feel that I have been called upon to admit the reservation of certain subjects in principle without knowing that I am doing it.

Chairman: You are afraid that, by discussing the question of whether certain officials should represent the Government on certain subjects, you are thereby led into admission that you are ready to accept the reservation of certain subjects. That is your difficulty?

U Ni: Yes.

Chairman: Well, I think we have to proceed on hypotheses.

Can we do it in this way? It is quite obvious that we cannot discuss everything at the same time. I start from that. We cannot suddenly break into a general discussion on the Lower House with a discussion on possible reserved subjects. But let me say two things. I said at the start that our opinions as we went along discussing these problems piece-meal, must be provisional, because we may have to alter them in view of subsequent decisions. Cannot we discuss it in this way? Let us assume that there is going to be a reserved subject. We do not prejudge either what any subject should be, or, indeed,

in a sense, that there should be any such subject. But assuming that there are to be, cannot we arrive at some general conclusion as to whether the Governor should be represented by officials or non-officials whom he desires to appoint in the Assembly? In that way you would get over the difficulty of being committed to any particular proposal.

U Ni: Would any of my friends like to say anything on this matter?

U Ba Pe: I would recall that, when participating in the discussions yesterday, we said distinctly that we did so on the understanding that Burma is going to enjoy full responsible government on Dominion lines. We can only take part in the discussion on that assumption and nothing else. Yesterday, in the discussion between the members of the British Delegation and ourselves, three positions were put forward by the British Delegation. One is that indicated by Lord Winterton, where you have two divisions of subjects, transferred and reserved, the former being subject to the control of the Legislature and the latter kept entirely outside its purview. The second position, if I follow the argument correctly, is that both transferred and reserved subjects should be placed before the Legislature, but its power in the case of the reserved subjects should not be so complete as in the case of the transferred. The third position is, that more subjects would be transferred to popular control, but with certain safeguards.

As to the first position, the one suggested by Lord Winterton, I may observe that, if you have transferred and reserved subjects, the reserved being excluded from the control of the Legislature, you are depriving the country of a voice in those departments which are excluded or supposed to be excluded. That, in itself, is an objectionable thing. If we are going to evolve a constitution that will automatically give to Burma the status of a full self-governing Dominion, we cannot exclude any subject from control of the Legislature. If that were done the Legislature would be deprived of experience and knowledge in connection with those departments. Not only so, but the feeling of the country, in regard to the departments dealing with reserved subjects, and kept outside the control of the Legislature, would be anything but good. So far as we are concerned, we cannot on any account agree to this division of subjects, transferred and reserved, the latter being kept out of the control of the Legislature.

Where you have some departments reserved and others transferred, the ultimate control of the reserved departments being more or less with the Governor, you are simply repeating or reproducing the dyarchical system, which has been condemned by all who have worked it. You are not going to increase the sense of responsibility in the Legislature which will be set up under a Constitution of that sort; you will make it more irresponsible, especially in regard to those reserved subjects. That is the experience we have had all along.

If you think it over, you will find there is no such thing as a half-way house between real responsibility and irresponsibility; either you make the executive responsible to the Legislature or they are not responsible to the Legislature. You cannot have a half-way house between the two. On that account, also, therefore, we cannot in any circumstances accept the division of the subjects into two parts, where we shall have some sort of control over

one part of them, and no control, or practically no control, over the other part.

(At this stage Lord Peel vacated the Chair, which was taken by Mr. Waidlaw-Milne.)

With regard to the third position, before we know what are the subjects to be reserved and the extent to which it is proposed to reserve those subjects, it is not possible for us to express a definite opinion, but I may say that responsible government, as conceived by us, does not admit of leaving any of the departments outside popular control. We want full control over all the departments. If temporary arrangements are necessary—

U Ni: On a point of order, is the speaker entering into a discussion of this matter or not? I have just raised a protest—

Chairman: As I understand it, he is supporting your view. As it was in order for you to put your view, it is clearly in order for him to support it.

U Ni: What I mean is this. I have suggested that the subject may be dropped for the time being.

Chairman: That is for the Delegates themselves to decide. *U Ba Pe* is quite in order as he is speaking now.

U Ba Pe: I was speaking about the third position, and I said we must have full control over all the departments. Where it is necessary as a temporary measure to have safeguards, and so on, that can be dealt with separately. If you examine all the cases, the necessity or otherwise of having officials in the Council will be apparent. In the first position, where you have the reserved subjects excluded entirely from the Council, there is no necessity for an official to be there, because the transferred subjects will be under the control of the responsible Ministers. In the second position, there may be a need for having officials, but it has all along been our experience in Burma that the presence of officials in the Council does not promote a feeling of responsibility. Most of the officials are from the Indian Civil Service. They are excellent officers; they are excellent civil servants so long as they are civil servants; but, when they are asked to do more than that, they cannot drop their training and their habits of thought, and the departmental views they place before the Council are not always in accord with popular sentiments or popular requirements. It is not their fault; it is the fault of the system. While, therefore, I have a great admiration for the ability of these civil servants, I have a great objection to their being present in the Council.

In the third stage, where we have fuller control, the necessity for advisers in the Council does not exist. The Burma Government will be run by responsible Ministers, who will have at their disposal the services of experts on any subject, as is the case in this country where you have full responsible government in working order. I do not know whether it is an opportune time to consider this subject here, but I think on the whole as we approach the subject from the standard of having for Burma full responsible government on Dominion lines, the discussion of subjects reserved and transferred, as well as the necessity of having expert official advisers in the Council, is rather premature. In any case, if you decide to go on with the discussion,

I want it to be noted that we in this part of the House have no inclination to agree to this proposition until we know more definitely the nature of the subject to be reserved as well as the extent to which it is proposed to be reserved.

Chairman: I think perhaps I ought to make it quite clear to the Conference that what we are really discussing is whether, if there are reserved subjects, the Government should have power to send their representatives to the Lower House to explain their views on those subjects. But we are not, at this moment, discussing whether or not there should be reserved subjects. We are working on the assumption, at the moment, that there are to be reserved subjects, and nobody is in any way committed by a discussion of what should happen under these conditions, to deciding that there should be reserved subjects. I think it has been made quite clear by both the gentlemen who have recently spoken that they reserve their opinions, as in fact the whole Conference does on that point. But I do not think that it necessarily need confine us—unless members think to the contrary—from a decision to that extent, that if there are reserved subjects the Government should or should not have power, for the sake of the Lower House itself, to appoint its representatives. I would remind the Conference that in other parts of the Empire where there are Imperial responsibilities there must be some subjects, for example, there may be control of Defence, Army and so on, in which the Lower House might, as I conceive it, want information. I merely want to make it clear that you are not in any way committed by this discussion to agreeing that there should be reserved subjects.

Major Graham Pole: Mr. Chairman, I really think the point that our friends on the other side want to get at is whether by taking part in the discussion now they are precluded from opening up this discussion later on when we come to deal with reserved subjects, if we do come to deal with them.

Chairman: They are not at all precluded.

Major Graham Pole: I think they want to be open then to take any objection; I think that is really the point.

Chairman: They are not in any way precluded from taking it up again.

Thayrawaddy U Pu: Mr. Chairman, do not you think it would mean delay if we were to take up this question again at a later stage of the Conference? As I have repeatedly told you, Sir, we have come here to co-operate with the Government and take up discussion, subject to our protest against the acceptance of the principle of separation. From the very start, we have asked His Majesty's Government, through the Chairman of this Conference, to let us know their intentions towards Burma in order to save the time and trouble of all concerned. If we Burmans, as well as my brother Delegates, who represent Minorities, are told what you intend to grant us for the next reforms, we shall be able to confine ourselves so far as that statement of the Government is concerned. Now, supposing we knew certain subjects are intended to be reserved; in that case we will tell the Government whether or not we can accept certain subjects as reserved. As a matter of fact, we want to know whether the Government will yield to our united demand first of all.

If we are told, " No, we cannot yield to your request this time," or " We can only go so far in that direction," that point should be made clear, to avoid waste of time. Major Graham Pole has just suggested that the Burmese delegates should be allowed to take up this subject, over and over again, after the conclusion of this Conference, after making a constitution with reserved subjects. . . .

Chairman : I do not want to interrupt you, but that is not what Major Graham Pole said. He did not suggest that the Conference should take it up over and over again. What he said, was that any decision which you came to now on this very simple and comparatively small point might be revised if, and when, a decision is given regarding the points that you are now raising. I do not want to rule you out of order, but I am bound to say that we are not discussing what the views of the Government are at the present time; we are discussing this simple point. Without wanting to stop you, the Conference will know that you have made that point of view clear before, and no doubt the Chairman has at any rate noted that carefully. I, of course, cannot give you any answer on that point.

Tharrawaddy U Pu : We heard yesterday, to our surprise, that it may be the intention of certain members that certain subjects should still be reserved. In fact, we have asked for full Dominion Status, or rather full responsible government. We had no idea in our minds of reserved subjects. There may be safeguards during the transitional period, as to which we would consider how far we could agree with the Government. That is what I would like to submit to you, Mr. Chairman.

Chairman : My answer to it, if I may answer it, is quite clear. Firstly, I do not recollect that any member of the Conference has committed himself on this subject at all. All the members are in precisely the same position as you are. They are all discussing as to what would happen if certain subjects were reserved. I cannot see why you cannot do the same. It is no use repeating over and over again that the Government should give you their views.

Tharrawaddy U Pu : It would be a waste of time to go into that question. We are not here to accept any dyarchical form of government. If we are told that certain subjects should be reserved, as in dyarchy, we would reconsider our whole position as to whether it would serve any useful purpose in joining in the discussion of a constitution like that. It is well known that dyarchy has been proved to be a failure, and I take it that His Majesty's Government here is also of the same opinion and at the Indian Round Table Conference, also, I believe the same opinion was expressed. So, after we have abolished dyarchy, if certain members were to propose, here, in this Conference, to revive dyarchy in another form, I, for one, would have to reconsider my position—we, I may add—we should have to reconsider our position whether we should waste your valuable time, waste the valuable time of all concerned, in joining in a discussion of another form of dyarchy. Yesterday three things came out. One thing was the same as in the present dyarchical form—that is reserved subjects and transferred subjects—and Lord Lothian's view was that reserved subjects should be placed before the Council or the Assembly in Burma, although the final decision should be in the hands of the Governor.

Chairman: If you will change the word from "should" to "may" I think you are right. There is a very great difference in the meaning.

Tharrawaddy U Pu: Yes, Sir, "may." That is a real form of the present dyarchy which we have already condemned, and on which we are not going to take part in any discussion. That is one form. Another form which came up was that there should be transferred and reserved subjects, and as regards reserved subjects they should not come up before the Council even for discussion, although the final decision may be left in the hands of the Governor. That is the worst type of dyarchy; it would be worse than the present form of dyarchy. During this Conference I have never heard of the word "safeguards" at all, although the word "safeguards" played a very important part, if not a capital part, in the course of the discussions at the Indian Round Table Conference. Here we have to talk of reserved subjects and transferred subjects. That is the same as dyarchy—it may be in another form—which we have condemned, and which we shall not take part in discussing.

I beg His Majesty's Government to be pleased to let us know their real intentions as soon as possible.

Chairman: I think you may take it, that on this particular narrow question, some members of the Conference prefer to reserve their decision until they know what form of constitution is evolved by this Conference.

U Maung Gyee: The discussion as to whether two, three or more seats should be provided for representatives of the Governor when any question relating to reserved subjects arises for discussion seems to be premature. To discuss the matter before we know whether any subject will be reserved seems like putting the cart before the horse. After all, the question as to what provision should be made for the explanation of the views of the Governor in regard to a reserved matter is a very minor one when considering the composition of the House. Therefore I suggest that the discussion on this point may be postponed until the substantial matter is decided—that is to say, until we know whether any subjects will be reserved.

Major Graham Pole: With regard to what Sir Oscar de Glanville said, there is one point I should like to make. On the assumption that there are any reserved powers in the Governor, Sir Oscar said that there should be no discussion on them.

Sir O. de Glanville: Ordinarily.

Major Graham Pole: No discussion ordinarily in the Legislature. I cannot see from that how you can get any training. Take Defence, which, if there were reserved subjects, would presumably be one of them. The Sub-Committee of the Indian Round Table Conference, which was presided over by Mr. Thomas, and of which Lord Peel, Sir Samuel Hoare, the Marquess of Lothian, and a number of others were members, arrived at the following definite resolution—it is called a definite resolution:

"The sub-committee consider that with the development of the new political structure in India, the defence of India must to an increasing extent be the concern of the Indian people, and not of the British Government alone."

In exactly the same way in Burma, if defence were a reserved subject, the defence of Burma must to an increasing extent be the concern of the Burman people and not of the British Government alone.

If that is so, then there must be some discussion of it, and the Federal Structure Committee in their Fourth Report, which was issued the other day, said: "It is undeniable that there can be no diminution of such opportunities"—this is dealing with Defence—"as the present Legislature provides of discussing, and, through discussion, of influencing Defence administration. While the size, composition and cost of the Army are matters essentially for those on whom the responsibility rests and their expert advisers, yet they are not questions on which there can be no voicing of public opinion through constitutional channels."

It seems to me, therefore, there must be some kind of discussion. I do not think the analogy Sir Oscar de Glanville has drawn with the present Burma Council is a very true one; a better analogy would be with the present Legislative Assembly, because the present Council is a provincial body whereas the Legislative Assembly is an all-India Assembly, including Burma, and the discussions in the Legislative Assembly in Delhi and Simla provide a better analogy than what takes place in the Provincial Council.

With regard to the two other points Sir Oscar has raised, that expert advisers should sit in the House nominated by the Government is, I think, fundamentally bad. I think expert advisers should be there to advise Ministers, as they are here, but they should not be on the floor of the House. They should be available so that Ministers may have their advice and so that the Ministers themselves can put the view of the Government as expressed by the expert advisers; but that the Finance Minister, for example, should have an expert adviser in the House who could express his views would be, I think, bad; it takes away from the dignity and the position of the Finance Minister, whoever he may be, if you have an expert official present who can give his views.

I want to raise these points so that it may not be thought we will agree with the position as put by Sir Oscar de Glanville.

Mr. Cowasjee: As regards the main point raised by my friends on my right, I express no opinion at this stage; but with regard to the point raised by my friend Sir Oscar de Glanville, I entirely disagree with him that the reserved subjects should not be discussed in the Legislative Council. The Legislative Council should certainly be entitled to make some sort of recommendation to the Governor in regard to his action with reference to reserved subjects. That recommendation could be made only if the subject is previously discussed in the House, and I take it that a constitutional Governor would always be anxious to know the view of an important body like the Legislative Council with regard to certain matters which are considered as reserved subjects. He is not bound to follow the recommendation, but the recommendation plus the discussion by the representatives of the people in the Council would doubtless carry very great weight, and it might induce him to alter any particular policy with regard to reserved subjects.

From that aspect, therefore, I think a full and free discussion should be allowed in the Legislative Council on subjects that are

reserved subjects, and a representative of the Governor should also be allowed to sit in the Council for the purpose of advancing any reasons or arguments that might affect the judgment of the Council the other way. From that point of view, I think a representative of the Governor in the Council would become necessary.

As regards expert advisers, I am in entire agreement with Major Graham Pole that expert advisers should merely be advisers of the Ministers. They should not be allowed to sit in the Council simply for the purpose of raising a discussion or pressing a case, which ought to be advanced by the Minister himself. If the matter is purely technical, a Minister, if he is a competent person, ought to be able to get his points from the expert advisers.

Mr. Campagnac : I must dissent from the opinion expressed yesterday that, if there were reserved subjects the Legislative Council would not be in a position to discuss those subjects. That is, they would not be in a position to ask questions; they would not be in a position to move resolutions or to make recommendations to the Government. The whole idea of calling this Conference, I understand, is to grant further reforms to Burma. If we were to recommend a reform of that kind, we should not be putting the clock forward but we should be putting it back. I do think that, if any subjects are to be reserved, we must be allowed to discuss those subjects in the Legislative Council, because if we are not allowed to do that, how can we get any experience of the administration of these subjects? How, then, can it be said that you are going, at any time, to confer responsible government on the people of Burma? If we are to have these reserved subjects, then the question is whether we are to have officials on the floor of the House to address the House on these subjects. I do think, Sir, that it will be necessary for some time to come that officials should be in the House to discuss particular subjects on which they have special knowledge. I know that there is very strong objection in some quarters to having officials in the House at all, but I do ask those gentlemen to consider whether, we, in Burma, have had sufficient experience of government to enable us to do without these officials.

I also ask them to consider what happened when the District Councils in Burma were thrown open to popular control. These bodies had always had at the head of them experienced officials and administrators. When the reforms were brought into force these officials were removed, and these Councils were allowed to carry on as they pleased. Men with no experience whatever were elected to these Councils, and, naturally, very adverse reports were made by Government. They had no help at all from the Ministry; the Ministry had no Inspectors to advise these bodies, and they did not function very satisfactorily. The same thing might happen in the Legislative Council if we were deprived of the assistance of these officials.

I do not say we are to have these officials there for all times, but I do submit that in the interests of Burma itself, and if we want to make it possible for her to have responsible Government, we must be guided for some time to come by these officials with special experience.

Tharrawaddy U Pu : Do I understand Mr. Campagnac to mean that he wants the officials only on certain occasions as experts?

Mr. Campagnac: Yes, only on certain occasions when subjects of which they have special knowledge are being discussed; then those officials should be allowed in the House.

Tharrawaddy U Pu: In the same way as they have experts appointed specially on occasions as experts now? We have that system now. Is it in the same way?

Mr. Campagnac: In the same way.

Tharrawaddy U Pu: Thank you.

Mr. Campagnac: I do not mean we should have officials who are going to vote, because we have abolished the official bloc. It is only officials to address the House.

Chairman: I take it those gentlemen on my left are still reserving their views. I only want to make one remark in connection with that. That is that you have several times referred to safeguards. It occurs to me that, even if there is a safeguard, you might want somebody to explain the action of the Government; therefore, I cannot see that you would have given away your position in any way by considering what would happen under those circumstances. But I do not press it in any way.

(v) *Nomination.*

(vi) *Representation of Minorities Communities and Special Interests.*

U Ba Pe: As we approach the discussion on the assumption, as I have said very often, that Burma is going to get full Dominion status, we cannot think of having nominated members in the Lower House; so as far as we are concerned we are against nominated members in any form.

Major Graham Pole: Is that the opinion of all of you?

U Ni: I support my friend on other grounds. I would like the Lower House to speak in the name of the people, and if we allow this extraneous element to be in a representative institution it will take away the popular nature of the Lower House.

Chairman: That means, does it not, that you contemplate that under any system, electorates are possible which will put into the Lower House representatives of all classes; you do not think any form of nomination would be required for special interests?

U Ni: I do not think so.

Mr. Haji: I think any useful discussion on any important subject bearing on the future Constitution of Burma will be next to impossible unless we know, as my friends on this side have demanded, before we discuss matters any further, where exactly we stand. Take, Sir, this question of reserved subjects, which has been reserved for further discussion. Take the question of nomination. From the remarks of the previous speaker one gathers that under the system to which they are looking forward, and I should say to which we are all looking forward, there should be no nomination. Now, how are you going to ask the Minorities, or anyone else for that matter, to give their views on the question of nomination when my friends here do not exactly know where they stand and do not know where we stand? That discussion, to my mind, will be futile, and where it is not a waste of time that discussion will have to be limited to very small,

petty subjects. It is most essential, therefore, that if we are to take any useful and constructive part in these debates we must know one way or the other exactly where we stand. For example, yesterday, or the day before, we had the statement of Lord Winterton to the effect that he regarded with horror the prospect of reserved subjects being discussed in the Burma Legislature. It may be that his point of view is sound; it may be that it is not at all sound. We do not know what the point of view of the Government is, but there we have the view of an eminent British politician. Then we had your view. Then we had the views of the rest of the British Delegation.

Take this matter of the reserved powers. It was stated that we could proceed on the footing that there would be reserved powers, and therefore that this, that, and the other would follow. But when there is such a fundamental distinction between the one side and the other, between reserved powers and no reserved powers, it is surely waste of time to keep on discussing contingent matters until we have decided the fundamental issue. The area of our discussion should first be cleared.

Chairman : I was anxious that you should be able, Mr. Haji, to put your views, but that is clearly a point which cannot be answered at this moment. The question of whether there should be nominated members is not entirely bound up in this at all. The question of the necessity for nominated members may arise even if the whole powers are transferred. You may still think that somebody must nominate people who would not be elected in the ordinary way, and the Conference might well give its attention to considering whether nomination might be necessary in any event.

Mr. Cowasjee : The question of nomination is one of great importance to the minority communities. It is really a subsidiary question to our decision on the item, "representation of Minorities in the Lower House." If the Minority communities can be adequately represented in the Legislative Council the question of nomination may or may not arise. But assuming for the sake of argument that there is going to be no reserved subject at all, the Legislative Council will have full powers on all subjects. This is a question of most vital importance to all the minority communities in the country; and I would suggest, subject to your approval, that we had better take up item 6 for consideration, and if, in the consideration of item 6 we come to the conclusion that adequate representation is to be given to the Minority communities, then it will be a matter for further consideration as to whether or not the Governor should be given the power to nominate certain persons as members of the Council. The suggestion has been made that the Governor should be given power to nominate half the members of the Upper House.

Chairman : That impresses me very much, that is to say, the idea that it will come better as a kind of sub-heading under item 6. The representation of Minorities in the Lower House raises the question of the existing proportion of seats reserved for special and minority interests, and whether that should be preserved and if so on what basis, and also the question of communal electorates for Minorities. Perhaps we could have a general discussion on those points, and members could raise any of these questions that they choose. It would really raise

the question of the existing proportion of seats for minority purposes, and whether there should be communal electorates. That is all really a part of the same question, which is No. 6 on the Agenda.

Sir O. de Glanville: With regard to these nominated members and the power given to the Governor to nominate representatives of special interests not otherwise represented, I think we ought to deal with minorities as a separate heading.

Now may I continue with my views on nomination?

Chairman: We had better get this point clear. Your view is that the nominated members, if any, should represent special interests which cannot be described as minorities.

Sir O. de Glanville: Not minorities, no.

Chairman: They will not be minorities.

Sir O. de Glanville: I am not dealing with safeguards for minorities, but with something rather different.

Chairman: If any member wishes to deal with the question of nominated members separately, let us deal with it. I do not know there is anything more to be said about it. Views were expressed yesterday, and the subject was reserved for discussion to-day; but it is almost bound to be touched on by this discussion, and I do not think it matters if this is taken as a whole. If you wish to discuss this I am willing that you should do so, provided the Committee agrees.

Major Graham Pole: I should like to suggest, Sir, that it would be a good thing if we could have some idea of how many minorities there are or claim to be, and how many special interests there are or claim to be because we may find that there are so many that all the seats will be taken up by the minorities and special interests!

Chairman: We have also been told there are no minorities, of course!

Major Graham Pole: One would like to know how many seats are required for these people, because on that depends to a large extent how many seats you have in the Legislature.

Sir O. de Glanville: I am sorry, but I am still not quite clear about this. Are we to talk on nomination?

Chairman: I have put all these three headings together, so that you are at liberty to speak on any or all of them.

Mr. Howison: I will attempt to state briefly the position of the European community and European commercial interest. The following passage occurs in the Report of the Statutory Commission, Volume II, page 68:—

“ As to European representation, this must continue to be secured by means of separate electorates. The numbers of Europeans in India are no fair measure of the contribution they make to the country, or of the influence which they exert. One of the best features of the operation of the Reforms is the way in which European business men of high standing and experience have contributed to the public life of the country by their membership of the Legislatures. ”

I entirely agree that the only means by which European interests can be represented in the Legislature is by separate electorates.

Then the Statutory Commission Report goes on to recommend that the present proportions of European representation should be maintained, subject to a possible increase in the case of Bombay. Burma is not mentioned, because in this Report the Commission were proceeding on the assumption, I understand, that, Burma would be separated.

Now we come to the actual position in the present Legislative Council of Burma. There are four elected European Members: one represents the general European constituency, two the Burma Chamber of Commerce, and one the Rangoon Trades Association. In the last two cases the Members are not always necessarily European, but the interests which they represent are essentially European—almost entirely European. In addition, out of the seven seats nominated by the Governor, three seats have in practice, in the past, been filled by Europeans. That has given the European community a total representation of seven seats out of a House of 103, which is approximately 7 per cent.

Now, if we compare that representation with the European representation in Indian Provinces as set out on page 69 of the Statutory Commission's Report, Volume II, we find that in Calcutta there were 15 European seats out of a total of 140; that is approximately 11 per cent. In Bombay there were 7 European seats out of a House of 114, which is over 6 per cent. I would remind you again that this Report recommends an increase in the case of Bombay. The Commission presumably came to the conclusion that European interests in Bombay were under-represented.

Now, to come back to Burma and the case of European interests there, as compared with Bombay and Calcutta, I think no one can possibly contest that, relatively, the European commercial interests in Burma are very much greater than in Bombay. It is not easy to make accurate comparisons because statistics on such subjects are not available.

But, in my opinion, the situation in Burma is much more on the same basis as in Bengal; that is to say the share of the trade and commerce in European hands in Burma is at least as large as it is in the Province of Bengal. On these grounds there seems to be a very good and clear case for an increase in the European representation in the new reformed Burma Legislature which we are now considering. I do not think that at this particular moment I want to state any definite percentage, but it must, on the reasons I have advanced, be greater than the present percentage, which I have already given as about 7 per cent. I might tentatively suggest that it should be not less than 10 per cent as against the present 11 per cent. in Bengal.

Major Graham Pole: I wonder whether Mr. Howison can give us approximately the number of Europeans and the amount of their interest.

Mr. Howison: I am afraid I cannot give you that information. I do not know where such information would be available.

Major Graham Pole: I just wondered if there were such figures.

Sir O. de Glanville: The numbers are available.

Mr. Cowasjee: 11,924.

Chairman: The number, no doubt, could be supplied but the question of the total of interests, I should think, would be a very difficult question.

Mr. Howison: Seeing that Major Graham Pole has raised that point, I should like to make it quite clear that we do not claim our representation on any basis of numbers.

Major Graham Pole: That is why I asked for the amount of their interest also.

Mr. Howison: And I think that it has very little bearing on this question, whether the proportion of Europeans in Burma to the total population is greater or less than in the case of Bombay or Bengal.

Tharrawaddy U Pu: I wonder whether Mr. Howison is able to give us some idea of the European capital sunk in Burma.

Mr. Howison: I am afraid I could not give any estimate of that.

Mr. Cowasjee: Mr. Chairman, the position at present in Burma is this. In the Legislative Council we have special constituencies for certain Minority communities. We have the Indian constituency, which elects eight members for the Council. One additional member is nominated by the Governor to represent the Indian Chamber of Commerce, so that we have nine members out of a total of 103. There are five members representing the Karen community, one representing the Anglo-Indian community, and as regards the Europeans, one is elected by the general European constituency and three others, two representing the Burma Chamber of Commerce and one the Rangoon Trades Association and one member represents the Chinese community; so that in all, of the Minority communities we have 21 members in the Legislative Council. Now, the Indian community has, as I have said, nine members on the Council, and I contend that in no circumstances should the number of members representing the Indian community be reduced but I would contend that it should increased to something like eighteen.

Chairman: Would it not be safer—I only suggest this for your consideration—to put it on a percentage basis, as we have not decided the total number of the Council? I suggest that it might be easier for you to do so.

Mr. Cowasjee: As the number in the Council is 103, a rough calculation would be about 9 or 18 per cent omitting the three over the hundred. At present on the Legislative Council we have the official bloc consisting of 14 members and 7 non-officials nominated by the Governor, altogether 21. To that number the two members of the Executive Council should be added, altogether 23. My first point is, that the official bloc and nominated members are there really to protect the interests of the minority communities in the sense of seeing that no injustice is done to the minority communities by the action, possibly the hostile action, of the majority community. We have had all these years the protection of this bloc. Now, as we are deciding to get rid of this official bloc and the nominated officials, 23, I submit this 23 should be given to the minority communities in the proportion of their existing representation in the Council.

We divide these 23 in the proportions of 9, 5, 1, 4, 1, etc. By doing that we still have for the majority community more than 50 per cent. At present eliminating the official bloc, the position is that the majority community represents 60 per cent and the minority 30, so that without the official bloc, the minorities in the Council have something like one-half. If, and when, we get rid of this official bloc and their support which the minorities have been enjoying since 1922, I think we are entitled to some special protection of our interests. I think Mr. Howison will admit the considerable extent of the commercial and industrial interests of the Indian community in Burma. We, as bankers, have advanced money by way of loans to Burmese agriculturists, traders, and so on. The money advanced every year has represented something like 100 crores of rupees. If enquiry is made it will be quite obvious that what I say is absolutely correct. Enquiry may be made of the Imperial Bank, a perfectly independent body; the result of such enquiry will support the statement I have made. It is out of Indian capital and enterprise that Burma has progressed. At the first business sitting of this Conference, I referred to a statement made by the Governor of Burma, Sir Harcourt Butler, who admitted that to be the fact. We have this further fact in our favour. The population of Europeans in Burma is 11,924, whereas the Indian population is something over 1,000,000. At this stage I propose to place my case for the Indian community before the Conference for the purpose of inviting a discussion, and I do not wish to elaborate my points at this stage, but I ask your leave to say something further and elaborate my points after I have heard what our friends on the other side have to say.

Mr. Campagnac : On behalf of the Anglo-Indian community I put my claim on somewhat different grounds from those advanced by the Indian community. We are a community of people who were born in Burma, who die there, who spend their money there, and we cannot get representation except by separate electorates. The Indian Statutory Commission recognised that fact, and recommended that, so far as Burma was concerned, we should be given representation through the medium of special electorates. There was attached to the Indian Statutory Commission a financial committee of seven, and that committee recommended that the Anglo-Indian community, as we were then called (we have since called ourselves the Anglo-Burman community) should have two seats in the Legislative Council; at present we have one. That recommendation was made because of the high level of literacy in the community, and also because the community is spread all over the Province and it is impossible for one man adequately to represent the whole of it.

It was recommended that we should have one seat for Lower Burma and one seat for Upper Burma. I hope my Burman friends will not object to giving this small community, which has always worked in such a friendly way with them, the representation for which it asks.

Major Graham Pole : Before anyone answers Mr. Cowasjee's speech, I should like to ask them to include in their answer something about these money-lenders. We know that in India the agriculturists, by the kindness of the money-lenders, are born in debt, live in debt and die in debt. I should like to know how the position in Burma in

that regard compares with the Indian position, because I think that in India, unless something is done about money-lending, it is really a curse and not a blessing.

Chairman : I am afraid I could not possibly allow that discussion to begin now !

Major Graham Pole : I raise the question because it is one of the chief claims put forward by the Indian community for special representation.

Chairman : I have no objection to a discussion on the subject of money-lenders or anyone else being represented, but I have grave objection to a discussion of whether money-lenders are good or bad. That is quite a different matter, on which there may or may not be varied opinions. If Mr. Cowasjee is going to reply, I hope he will not deal with the merits of money-lenders.

Mr. Cowasjee : When my friend reads the speech I made on the first day he will find a quotation from an address by Sir Harcourt Butler.

Major Graham Pole : I am not forgetting that.

Mr. Cowasjee : There it is stated that the Chettians have been advancing money at reasonable rates of interest.

Chairman : We cannot have a discussion on that, Mr. Cowasjee. It is perhaps my fault for allowing Major Graham Pole to say what he did, but I hope you will make your reply very short.

Mr. Cowasjee : There is also the finding of the Banking Enquiry Committee recently appointed, which came to the conclusion that the rates of interest are reasonable.

Lord Winterton : I have no doubt that all you say is correct, and that they are admirable people, but do you wish for special representation for them because they are money-lenders or because they are Indians?

Mr. Cowasjee : No, not only on that account but on account of the economic strength and vested interests of people and their population.

Lord Winterton : Generally?

Mr. Cowasjee : Yes.

Lord Winterton : Not because they are money-lenders? I understand. I asked the question quite genuinely.

Mr. Haji : Sir, speaking at this Conference on behalf of the Indians in Burma, I find myself in the happy position of making similar claims to those put forward by Mr. Campagnac and Mr. Howison. The Indians in Burma who have always lived there, and those that live there to-day and will die in Burma, are on a par with the Anglo-Indian community. We speak here on behalf of people who, as I said before in my opening speech at this Conference, have no Indian home and who are Burmans for all practical purposes, and particularly so far as State-making is concerned. Our case resembles that of Mr. Howison because of our vested interests in Burma, interests which are the result of activities which perhaps I may be permitted to sum up by a quotation from the memorandum submitted to the Statutory Commission on behalf of the Indian interests in Burma.

They say:—

“ The Indian community as a distinct community has come to stay in Burma. In all spheres of activity, social, economic and political, Indians in Burma have been playing a leading part in the development of the Province and it is largely due to Indian initiative, enterprise and capital that the Province of Burma of today has become an important Province with its vast stretches of paddy lands and its prosperous and imposing cities. By reason of its leading part in the development of the Province and the important rôle which it plays at present in all the progressive activities of the Province, the Indian community is entitled to have its interests safeguarded. Indians in Burma have always evinced a keen and active interest in the political progress of Burma and have always loyally co-operated with the indigenous communities in their attempts towards political advancement.”

That much, Sir, by way of preface. Coming to the facts and the details of the question with which we are at the moment concerned I should, if I may, like to refer once again to my opening remarks, in which I stated that the question of modern State-making should be judged and faced from the point of view of both the political State and the economic State. I should like to see that our programme is based upon a scientific understanding of all the problems involved in the making of a constitution for a modern country. Economics, of course, play a very important part—perhaps more important, and at least as important as the part played by numbers alone. I should therefore regard it as a proper standpoint to put before you, the one that I regard as politico-economic, a standpoint from which one looks at the subject of the future growth of Burma as a living organism which needs to develop, not merely politically but economically, in the future development of which past political and economic phases must be remembered.

In this connection I cannot do better than provide some information for which I believe Major Graham Pole asked in connection with capital investments, and so on. It is not my purpose at the moment to go into details, because a further stage will come at a later time. But to deal with percentages, as you yourself have demanded—I think I am right in saying—

Chairman: I merely suggested that as putting the case more clearly; that is all.

Mr. Haji: I quite agree, percentages are clearer. Now, a lot of attention has been paid to the question of population, and it was suggested that the population of the Europeans should be taken into consideration with regard to their place in the constitution of Burma. That cannot possibly be so. As a matter of fact, all the precedents provided by the Indian constitution show that the Europeans are regarded, not as so many heads, but as so many vested interests or as so much of the vested interests of the country. It is in that capacity that, very rightly, they took their proper place in the various Provincial constitutions, as also in the Council of State and the Legislative Assembly.

When we examine the point about the total wealth of Burma to-day—and I have taken some pains over this matter—when you size up the whole of the economic field in Burma, including agriculture,

industries, commercial undertakings, import trade, export trade, internal trade and anything else, if anything remains, which make up the economic life of the nation, even including the bankers and the money-lenders—the percentages will be more or less as follows—speaking very roughly of course. Generally, I might say that so far as agriculture is concerned, the Burmese inhabitants in Burma have the most predominant share.

So far as industries are concerned, I believe the Europeans have a predominant share. The Indians have their place as agriculturists, as owners of land, as landowners, householders, and so on. But to return to the percentages; the percentages roughly, are as follows. Out of the total wealth of Burma today, the Burmans may be said to possess 50 per cent., and in the word "Burman" I also include the Karens. Burmans have about 50 per cent. of the total wealth of Burma. The British have anything from 20 to 25 per cent. of the total wealth of Burma. The Indians have from 25 to 30 per cent.

U Ba Pe: What about the Chinese?

Mr. Haji: When I say Indians, I include the Chinese.

Tharrawaddy U Pu: How many Chinese?

Mr. Haji: I can make it quite clear that the Chinese interest, which used to be, until recently, rather predominant, has recently withdrawn its interest from the economic life of Burma.

Sir O. de Glunville: No, no.

Mr. Haji: I am prepared to have that statement challenged, and I know that the statement is correct that the Chinese do not own so much of the material wealth of Burma to-day as they did a few years back; but, anyhow, for my purpose it is quite enough to say—

Mr. Kim Seing: Perhaps only in Rangoon.

Mr. Haji: At any rate, you may say that the remainder belongs to the Indians and the Chinese. The point, Sir, is this, that so far as the economic wealth is concerned the Burmans have half and the rest of the people have the other half. So far as the population is concerned, I need not give you the details of the figures because they have been circulated to us. Anyhow, there is the question of the population, and there, of course, we have the figures to help us. The Burmans are roughly ten millions and the minority communities 2.73 millions.

I take these figures from the figures supplied to us. Speaking in terms of proportions of the population, the Burmans are to the minorities, as 4 to 1. We therefore have this position, that so far as the economic phase of nationhood is concerned, it is 50/50, but with regard to population it is 4 to 1.

Now, in working out the number of seats by percentage to be given to the different sections of people in Burma, I would very respectfully suggest that these two fundamental facts be borne in mind; and, if I may throw out a suggestion it would be worth the while of this Committee to work out figures on the basis of 50 per cent. of the total seats being distributed among the different people on the population basis and 50 per cent. of the total seats being distributed on an economic basis. I think you will find that that is more or less the

general principle upon which the present distribution of members in the Legislature is based.

Therein comes in the point which my friend made, namely, that the nominated seats in Burma to-day are really seats belonging to the minorities; because, as we are all aware, these seats are there to enable the Governor to carry out, when pushed into a corner, the mandate given to him in the Instrument of Instructions. It is the Governor who has, under the orders of His Majesty, to look after the protection of minorities, and therefore it is only fair and just that, when these different numbers again come to be distributed, the figures for the nominated seats should be distributed among the minorities, and you will find that by so doing you will fit into the principles I have laid down, of 50/50 for population and economics—the whole of the internal distribution of seats so far as the Legislature is concerned. You will find that is a principle which is equitable and which will work out more or less fairly. It may give one seat more here or one seat more there, but that does not matter very much, it is a matter for adjustment. My friend Mr. Campagnac may say I have not mentioned his community, but that is simply because of the smallness of their numbers and because I have not been able to get at their economic strength, but they can be put among the minorities, and it is quite possible that according to this scheme, Mr. Campagnac will get the two seats which he wants. Those are matters of detail to be worked out later.

The main principle to which I wish to draw the attention of the Committee is that which I mentioned in my earlier remarks, namely, the desirability of proceeding on the basis of doing equal justice to the numerical strength and the economic strength of the different sections of the community. If things are done in this way, which seems to me a just and equitable way, we shall not hear much of dissensions and of people trying to get an advantage for themselves, and I hope there will be as much good will in the future as in the past.

Tharrawaddy U Pu: Mr. Haji says the Burmans have 50 per cent. of the wealth, the British 20 to 25 per cent., and the Indians 25 to 30 per cent. I should like to ask him when he thinks that the 50 per cent. of the wealth which the Burmans possess will be entirely gone. I should like to be enlightened on this subject.

Mr. Haji: Sir, the question of my friend shows the delusion under which he has been working. He presupposes that because the wealth is in Burma, that wealth has been created by the Burmans. This 50 per cent. which does not belong to the Burmans is not what belonged to the Burmans in the past, and the other people have snatched it away from them—nothing of the kind. I have read out that quotation, and, of course, you are all familiar with the industrial and commercial enterprise in Burma of the British, the Chinese and the Indians. It was that enterprise that created this new wealth, and their share is 50 per cent. I think it would be a great mistake for my friends to imagine that it was 100 per cent. once upon a time, of which 50 per cent. has been taken away.

Tharrawaddy U Pu: Yes, that is so.

Mr. Haji: What happened was that their 50 per cent. of today was 100 per cent. once upon a time. Of the other 50 per cent. I might

say two or three per cent. of it might have been taken but that is relatively immaterial. The main point I want to make is that the wealth which today belongs to the minorities in Burma is to a large extent created by their own capital, and to a large extent by their own effort.

U Ba Pe: Mr. Haji has quoted certain figures in relation to the wealth of the country. I want to know who worked out those figures, and on what method.

Mr. Haji: I worked out those figures by the direct method.

Sir O. de Glanville: I want to ask a question if I may. Mr. Howison stated what he thinks would be a reasonable percentage for the Europeans. Mr. Haji has worked out a scheme. Will he state what percentage he will allow to the Europeans and to the Indians?

Chairman: What percentage the scheme would result in?

Sir O. de Glanville: Yes.

Chairman: I do not know whether he has gone to that length in detail.

Mr. Haji: I am afraid I have not gone to that detail, but I think I made it quite clear in my remarks that the detail for each community may be worked out on that basis. I am sure we on this side will not have the slightest objection to the vested interests, whether Chinese or European or any other, getting their full share.

Chairman: As this is a very valuable discussion I think I should say we have clearly three views so far. I want to make it clear, so that those who are going to speak may follow. Firstly, the European interests say there should be an increase which they suggest very provisionally should be 10 per cent. Secondly, Mr. Cowasjee suggests that what is called at present the official bloc should be split up among the Minorities. Thirdly, we have a very interesting scheme from Mr. Haji regarding the splitting up in the way he has described. Now I shall be very glad to get any further views.

Sir O. de Glanville: Mr. Chairman, I am sorry that Mr. Haji has raised this question of wealth. He stated that only 50 per cent. of the wealth of Burma is in the hands of Burmans. I may say—I speak, I think, for everyone on this side—that we all hope that that distribution will not continue. We look forward to the time when the Burman will own his own land free of mortgages, free of debts. I do not think that we can very well distribute our seats on Mr. Haji's estimate of the present distribution of wealth, for, when more prosperous times came, we should have to have another re-distribution. I would rather like to put it on the interests that are likely to be permanent. I entirely agree with what has been said by Mr. Howison on behalf of the strength that he suggests for the European Community, but I should be interested to hear—and I thought I should hear it now—as to what is the representation claimed by the Indians, because if we do not state now what we think ought to be approximately our representation, I do not see how we are ever going to arrive at a conclusion.

Mr. Cowasjee: I said distribute these 23 seats proportionately among these minority communities. My fraction is 9 per cent. Yours would be 4 or 5 per cent.

Sir O. de Glanville: I am not a mathematician. It would make it simpler to me if I knew the figures. If I know the percentage and have to work it out I should work it out possibly to totals that are wrong. Possibly Mr. Cowasjee at a later stage will give us the figures.

Mr. Cowasjee: I will give you the figures if you want them.

Sir O. de Glanville: We come back now to this, that if we did get for the minorities, the amount of representation which each minority claimed, we should then be in a position to have a friendly discussion and see if we could not cut off a little bit here and add on a little bit there.

Tharrawaddy U Pu: Then you will leave something for the Burmans?

Sir O. de Glanville: My personal view is, leave the Burmans the majority and do not reduce them to the position of a minority. As I say, I agree with what Mr. Howison said. I do not want to say any more about that at this stage, but I come to the question of nominations. From what I have heard from Mr. Cowasjee, from Mr. Haji and from Mr. Howison, I gather that they ask whether it is necessary to have nominations at all. If we get our full representation, if the Indians get full representation through the separate electorates, is there any room for nomination at all? I think there is, because there are certain interests in the country which cannot be elected on the communal basis. There are, for instance, certain tracts which are not backward, but which are near the backward, and are excluded from the electoral area, and one of the reasons for nomination, I believe, is to allow the Governor to nominate somebody to represent them. I think parts of the Chindwin come under that.

Tharrawaddy U Pu: Governor or Cabinet?

Sir O. de Glanville: The Governor does it now. Another interest which is not always represented, and may not always be represented by election, is labour. Labour in Burma is not organised. It always has been the practice of the Governor to nominate **someone** to represent labour, and I therefore think that nomination should be retained. We are, I hope, trying to fix a Constitution that will evolve, and it is not necessary that those nominated seats should remain for ever. We have had an example of that already. We had originally eight nominations in the hands of the Governor. Indian commerce clamoured for representation, and the Governor himself used to nominate some person to represent Indian commerce. Subsequently, the Indians said they were not satisfied with this kind of nomination; they wanted to choose their own representative—perfectly rightly—and the Governor, although he had the nomination, said “Very well, if you, the Chamber of Commerce, will put up somebody that you would like to represent you, I will nominate him.” That was done, and later the rules were amended and a seat was given to the Indian Chamber, a seat which it now has, and the number of nominations was reduced to seven. I think that if we do have nominated members the number will gradually be reduced, the seats given to constituencies will be increased, and the necessity for nominations will gradually disappear, as I hope it will disappear.

I am in favour, therefore, of reserving a certain limited number of nominated seats. At present we have seven. I do not think it is necessary to have such a large number, and I believe two of the present nominated members are Burmans. I do not know that they represent any particular or special interest, but they have been nominated because there are certain nominated seats and it is necessary to fill them. I would suggest that five nominations would be sufficient. We can leave those out of consideration when we are deciding on the percentage which should be given to each community.

Chairman: Is it your suggestion there should be five instead of the ten previously suggested by somebody? Do you suggest five nominated members?

Sir O. de Glanville: I think five would be sufficient. At present we have seven. I am taking a basis of 100, of course, and considering a Chamber of 100. If we double that number, the number of nominated seats would go up to 10. All my remarks are on the basis of 100.

Chairman: And these nominations are not anything to do with the interests already spoken of, but concern separate interests?

Sir O. de Glanville: They would not be there for the purpose of giving representation to the minorities who are represented by separate electorates. They would be given for the purpose of such special interests as are not, in the opinion of the Governor, fully represented. If in the Council, for example, we had very few land-owners represented, the Governor might fill up some places by nomination from land-owners. I should like at present to leave at least five nominated seats, but I hope in time they will gradually disappear without any amendment of the Constitution.

U Tun Aung Gyaw: I should like to know why Sir Oscar classed the aboriginal districts as backward districts. The people can read and write.

Sir O. de Glanville: The backward tracts are excluded entirely, but there are certain outlying portions not in the backward tracts and not in the electoral area, and it is to represent those that there are nominations. Of course when those are formed into an electorate the nominations will cease, and in place of nominated members there will be elected members.

Mr. Kim Seing: As I have pointed out in my speech at the Plenary Session, I emphasise once more the importance of the land-owners' interest and the interest of the Chinese Chamber of Commerce in Burma. Both are considerable. Burma is, as we are all aware, a purely agricultural country. As such, land-owners not only have a stake in the country but are themselves interested in the development of agriculture and methods of cultivation and so on; development in these respects which is so insistent at present, can more easily be achieved with their assistance and co-operation.

In support of this, I should like to read an extract from the Report of the Federal Structure sub-Committee, the Second Report, paragraph 34, where they recommend that special provision should be made for the representation of the Depressed Classes, Indian Christians, Europeans, Anglo-Indians, Landlords, European and Indian Commerce, and Labour.

Then, Sir, in the proceedings of the Federal Structure sub-Committee, Part I, page 280, we find that in paragraph 34 the committee say:—

“Representation of special interests and of the Crown in Federal Legislature.—Two further points remain to be mentioned in regard to the composition of the Federal Legislature. Opinion was unanimous in the sub-Committee that, subject to any report of the Minorities sub-Committee, provision should be made for the representation, possibly in both Chambers, and certainly in the Lower Chamber, of certain special interests, namely, the Depressed Classes, Indian Christians, Europeans, Anglo-Indians, Landlords, Commerce (European and Indian) and Labour.”

Sir, I would therefore submit that landowners as a class should be given a special representation in both Houses of the new Legislature. As regards the number of seats I would suggest at least two per cent. of the number in the Lower House and one seat in the Upper House.

As regards the Chinese Chamber of Commerce, its members consider that the single seat allotted to them under the present constitution is inadequate in view of the importance and value of trade they handle in Burma. I think there is none here to deny the fact that the volume of trade and its value that passes through the hands of the members of this Chamber, entitles them to more than one seat in the new Legislature. I think they might be contended if two per cent. of the seats in the new House were allotted to them. Unfortunately, Mr. Haji stated that the Chinese in Burma have withdrawn themselves to some extent from the economic life of the country. I deny this statement altogether.

Mr. Haji: I am very glad to hear that.

Mr. Kim Seing: I am sure I shall be supported on this point by my friends on my right. But, on the other hand, I should like to state that recently Indians have withdrawn themselves from the economic life of Burma owing to the separation question.

Major Graham Pole: I should like to ask one question of our friend who spoke of landlords getting special representation. I wonder if he would tell us exactly how he defines landlords; because here if landlords in this country had special representation it would involve an enormous constituency covering almost the whole country. I want to know exactly what a landlord is, if he could explain it.

Mr. Kim Seing: When the Statutory Commission was in Burma one of the landlords gave oral evidence before that Commission; he said they had an organisation consisting of landholders who hold land of above 300 acres.

Tharrawaddy U Pu: I want to know how many landlords there are in Burma according to his estimation, how many of them are Burmans and how many of other races.

Chairman: Have you made any estimate of that?

Mr. Kim Seing: According to the statement in that oral evidence, the association consists of 800 members.

Tharrawaddy U Pu: Are those 800 members landholders or cultivators?

Mr. Kim Seing: Landholders.

U Maung Gye: Will you let us know what is the relative importance of Chinese and European interests in Burma?

Chairman: Do you mean in land?

U Maung Gye: No, generally.

Mr. Kim Seing: I should like to say the Chinese are of more importance. Practically, the village is incomplete without a Chinese shop.

U Ba Pe: Hoe Kim Seing said the members of the Landlords Association were some 800. Does he suggest that representation should be given to that particular Association or to all the other landlords in Burma. If so, how does he propose to give representation?

Chairman: I understood that his view was that the representation should be given through that Association.

Mr. Kim Seing: That would be the best, Sir. Anyone who owns three hundred acres should be entitled to become members of that Association.

Mr. Loo-Nee: Mr. Chairman, in view of the discussion which has arisen during the latter part of this afternoon, and in view of the statement made by my friend U Ba Pe yesterday, which will be found on page 12 of the stenographic notes, where he said—

“ We are prepared to do our level best to protect the interests of the minorities, but on communal grounds we do not see any reason why they require special protection in this way, except perhaps in the case of the Karens ”

—in view, if I may repeat, of the latter part of the discussions here and this statement of U Ba Pe, we Karens here wish to know where we stand, and how we stand, with regard to this matter. We admittedly, are one of the indigenous races of Burma, ranking in point of population second only to our Burmese fellow-countrymen. We regard the interests of Burma as our own—so much so that from the very inception of the Reforms we have taken a keen interest in trying to express ourselves and endeavouring to get what we can for Burma. It would be a long story to repeat the whole history, but, to take the first and the last, we may point out that when the reforms for Burma were considered my friend U Ba Pe was on the Burmese deputation and I was on the Karen deputation, and we had the honour of giving our evidence before the Select Joint Committee, presided over by Lord Selborne. Therefore, from this it is obvious that in Burma, the two races who have regarded Burma as worthy of representation have been the Burmese people and their fellow-countrymen the Karens. Now, we wish to know how we would stand in this new scheme of things. Some of the speakers who have preceded me have put forward claims, some basing their claim not on a population basis but on their special interests. We can base our claim not only on a population basis but also in a special way, in that we are one of the indigenous races of Burma; and therefore, Sir, we wish to know what the attitude of this Conference will be towards the Karens.

Regarding the point which has been touched by Sir Oscar de Glanville, the point of nomination, we are not in favour of nomination. We wish the representatives in the Lower House to be elected.

With regard to what Mr. Cowasjee has put forward, the claim of the Indians, basing that claim on the fact that they lend out so much money to the people of the country, I submit that that is no claim, because that is only a matter of trying to get gain from the people of Burma.

Mr. Cowasjee: I referred to it as one of the factors.

Mr. Loo-Nee: That fact, if it has any influence at all, is rather a reason why the Indians should be taxed more heavily for being in Burma, than a ground for securing representation, and, as a reason for representation, I submit, with all due deference, that it is devoid of foundation. Therefore, not to occupy the time of this Conference too long, we should be glad to have a ruling from the Chair as to the position of the Karens.

Chairman: I think it is hardly a question for a ruling from the Chair, Mr. Loo-Nee. You have said—and I dare say it is a very wise attitude—that you want to know what the position of the Karens is going to be. May I suggest that what the Conference wants to know is what the Karens are asking for. I do not press you further on that, but it would be useful to know, because we are here to discuss every point of view, and it is not a question of what the Conference decides—we have not come to that stage yet—but of what you think it should decide in connection with the Karens. If you could give us an indication of that, I think it would be helpful for all of us.

Mr. Loo-Nee: An indication, Sir, has been given in the statement that I was privileged to make here on the first day, and in it we asked that there should be a representative for the Karens in every district in Lower Burma. However, other features have been introduced into this matter, and if, as my friend U Ba Pe suggests, there should be a representative for every 20,000 people, then on the basis of population alone—

U Ba Pe: I said for 20,000 electors, not 20,000 people.

Mr. Loo-Nee: That would give us something like 30 or 40 representatives in 150 or 200, and out of 100 it will be more than we have asked, but we do not want to put our claim too high. Even on that calculation, however, it appears that we deserve a larger number than we have claimed, but we are always open to reconsider the matter so that the arrangement made may be fair to all sides. Mr. Howison has claimed 10 per cent. for Europeans, and he bases this, not on population, but on the fact that the vested interests of the British people are very large. Perhaps he will be able to tell the Conference the amount of British interests in Burma. Mr. Cowasjee has asked for 50 per cent., and as I understand him—I am open to correction if I am wrong—he asked for that representation on the basis that the Indians have put out 100 crores of rupees in Burma.

Mr. Cowasjee: That is not correct; I said that is one of the interests of the Indians. The Indians have large vested commercial and industrial interests in the country. One of the interests is that they have 100 crores of rupees in the country.

Mr. Loo-Nee: My friend Mr. Campagnac does not base his claim on a population basis, but because the Anglo-Indian or Anglo-Burman population is scattered throughout the length and breadth of Burma, he has asked for the number of Anglo-Indian or Anglo-Burman seats to be doubled. Mr. Chairman, we are asking that our people should receive representation which will be an education for them on the one hand, and will be a means of their rendering better service to Government. On those grounds, we submit, that for each of the districts in Lower Burma we should have our representation. It may be that in a few districts we may not come up to the population requirements. In that case, in view of the new complexion of things, we may be able to claim two or three members from one of our very large constituencies. The basis on which we put forward our claim is, as I have said, the fact that we are on the soil, the fact that there is no dispute as to our rights and interests so far as Burma is concerned, and, also, we may add, that we are the people who require our own representatives because it is only our people who really understand us.

On these three grounds, Sir, I ask that, for the Karens, there should be separate electorates in order to give us political training, and, as I have already submitted in my speech, that the Karens may have their rightful place and share in the administration of Burma.

U Tharrawaddy Maung Maung: Yes. Does Mr. Loo-Nee want one Member for each district, or one Member for each district where there are Karens?

Mr. Loo-Nee: In Lower Burma there are Karens in every district.

U Tharrawaddy Maung Maung: Sixteen. That means you want a little more than three times the present representation.

Chairman: I do not think we need go further than that point. I think we have it clearly that the Karens are anxious to have communal electorates on some basis of representation.

Tharrawaddy U Pu: Separate—not communal.

Chairman: It becomes communal in this case, surely.

Mr. Loo-Nee: Let me make my position clear. We have, I think, made it abundantly clear that we have the interests of Burma very near to our hearts, and here we are claiming that there may be special electorates—purposely avoiding that dangerous word “communal.” We do not want to perpetuate this thing which has been a stumbling block to India.

U Maung Gyee: According to Mr. Haji’s scheme of things, the Karen population and the Burmese population—in fact, the entire indigenous population of Burma—are to get fifty per cent. of the seats in the Lower House.

Mr. Haji: I do not think I said that.

Major Graham-Pole: Fifty per cent. of the population part.

U Maung Gyee: Yes; what percentage would he allow to the indigenous population?

Mr. Haji: I have not worked it out.

Chairman: I think perhaps you had better raise it to-morrow when I have no doubt there will be a good many gentlemen on my left who will be anxious to pursue this part of the subject.

(The Committee adjourned at 4-47 p.m.)

Proceedings of the Fifth Meeting of the Committee of the Whole Conference, held on Friday, the 11th December, 1931, at 11-0 a.m.

HEAD 3.

CONSTITUTION OF THE LOWER HOUSE—continued.

(v) *Nomination.*

(vi) *Representation of Minorities Communities and Special Interests—continued.*

Chairman: I should like, first of all, to ask Mr. Hoe Kim Seing to make clear a point in his previous remarks. I was not quite sure, in speaking of the representation of the Chinese Chamber of Commerce, whether he meant the two per cent. to be cumulative or complete, that is to say, whether he intended two per cent. for the Chamber of Commerce and in addition to that, a further percentage for the Landowners Association.

Mr. Kim Seing: The two things are separate. I claim two per cent. for the Landowners Association, and, apart from that, two per cent. for the Chinese Chamber of Commerce

Chairman: You claim two per cent. out of the membership of the Chamber?

Mr. Kim Seing: Two per cent. out of the members of the Lower House.

Chairman: It is the Lower House we are dealing with. If we take 200 as the number of members in the Lower House, four of these will be representatives of the Chinese Chamber of Commerce?

Mr. Kim Seing: Yes.

Chairman: And four will be members of the Landowners Association?

Could you tell me how it was that you arrived at that particular figure of four representatives for each of those interests in the proposed assembly?

Mr. Kim Seing: As regards the Chinese Chamber of Commerce, we have, already, one representative in the Lower Chamber.

Chairman: You have one already?

Mr. Kim Seing: Yes, we have one at present, and I was asked to place before this Conference the view that this is inadequate, and to ask for more when the new constitution obtains.

Chairman: Yes, I understand that, but what I wanted to know was whether you could tell me on what basis you were putting forward

your claim for four. You say one is inadequate, but I should like to know why.

Mr. Kim Seing: The present position is that there are 103 members in the Burma Legislative Council, and the Chamber has one representative in the Legislature. As the official bloc and the nominated members are going to be abolished we thought the Chinese Chamber ought to be given more seats.

Chairman: But you base it on what—on the importance of the interest they represent, on the numbers in the Chinese Chamber, or what?

Mr. Kim Seing: On the importance of the trades which they represent.

Chairman: And then with regard to the landowners—

Mr. Kim Seing: With regard to landowners, the claim is also based on the importance of the interests they have in the country. At present they have not any representation in the Council.

Chairman: I was wondering why the landowners and the Chinese Chamber of Commerce should come out equal, each having four representatives. Under your proposal you want four representatives for each?

Mr. Kim Seing: There is no connection whatever between these two bodies.

Chairman: It is only a coincidence that the figure is four in each case, is it?

Mr. Kim Seing: Yes.

Mr. Cowasjee: With regard to the Landlords Associations, I should like to point out that we have more than one such association in Burma at the present time. We have the Rangoon Landlords Association, which is not a communal body and which consists of members of various communities. Most, if not all, of the prominent landlords of Rangoon are members of that Association, so that if we are going to have elections by the landlords we must have an election on behalf of the numerous Landlords Associations of Burma. As far as I can remember, there is the Rangoon Landlords Association and there is also the Burmese Landlords Association, which is an association covering the whole of Burma. Incidentally, the members of the Rangoon Landlords Association are also people who own properties outside Rangoon, so that the interests of both bodies are more or less identical. The representation should not be limited to one association; all the various associations should have a voice, and I do not think two members to represent the landlords of Burma on the Legislative Council would be adequate, if we are going to have representation on behalf of the landlords.

Chairman: I am not clear whether you are agreeing with Mr. Kim Seing.

Mr. Cowasjee: I agree, My Lord, that landlords should have their own representation on the Legislative Council.

Chairman: Do you suggest they should have the same representation as has already been suggested?

Mr. Cowasjee: With regard to the number, I am not in a position at present to form any definite opinion, but I think that the landlords ought to be adequately represented on the Council.

Mr. Hall: May I ask whether this is a new request with regard to representation for landlords? Are the landlords represented at the present time?

Mr. Cowasjee: No, not as a class.

Major Graham Pole: And in the Association there are some 800 of them, are there not?

Mr. Cowasjee: In the Association of the Rangoon landlords I think the number is a little over 1,000. I am not quite sure; I cannot give you the exact figure, but they represent an interest in Rangoon of about 60 to 70 per cent. of the value of landed property in Rangoon.

Major Graham Pole: Of course, the landholders in Rangoon must represent the whole of Rangoon. After all, Rangoon must all belong to some kind of landowner.

Chairman: Well, I do not know. Some of it may belong to the municipality. I do not know whether you call the municipality a landlord.

Sir O. de Glanville: I understand Mr. Hoe Kim Seing's claim is for agricultural landlords owning over 300 acres. Do I understand Mr. Cowasjee is claiming for house-owners?

Mr. Cowasjee: I am claiming for all landed interests, whether house-owners, or owners of paddy lands or other lands outside the Rangoon town.

Major Graham Pole: You want double representation—plural voting?

Mr. Cowasjee: No, not necessarily; but I want the representation to be effective so that not only one particular section of the landlords is represented, but I ask that the landlords of the whole Province should be represented.

Chairman: Do you know, roughly, the numbers of these different associations—the total number?

Mr. Cowasjee: As regards the value of interest?

Chairman: No, not so much the value as the numbers. You said there were about 1,000 for Rangoon. Have you the rough figure?

Mr. Cowasjee: I am only giving rough figure. I do not remember now.

Chairman: You have not a rough figure in your head?

Mr. Cowasjee: I think roughly about 1,000.

Chairman: But that was for Rangoon?

Mr. Cowasjee: That is for Rangoon, yes.

Chairman: I meant for these different Associations.

Mr. Cowasjee: No, I could not tell you.

Mr. Hall: May I ask whether we could have an idea as to the approximate amount of land owned by the Chinese landowners, by the

Indian landowners and also by the Burmese landowners; and, following that, as to whether my friends would be quite prepared to agree to all landowners, irrespective of whether they are Burmese landowners, Chinese landowners, Indian landowners or European landowners, having separate representation. That is just following up that point, I think. Because this, as I understand, is a request for new representation.

Chairman: I think you are asking Mr. Cowasjee rather too hard a question, because I have just inquired from Sir Samuel Smyth, and he says these figures are not available in Burma, so that I am afraid they are not available here. I was trying to help Mr. Cowasjee when he was in a difficulty owing to the question you put, Mr. Hall.

Mr. Hall: I certainly want Mr. Cowasjee and our friend here to prove that they are entitled to representation as a separate class.

Chairman: Yes, certainly ask them a question. I was only wondering whether Mr. Cowasjee was able to answer it.

Mr. Hall: I was prepared to leave that to Mr. Cowasjee.

Chairman: Yes; I think he was in a difficulty about that; but ask your question.

Mr. Hall: Well, that is the question I put.

Chairman: What do you say, Mr. Cowasjee?

Mr. Cowasjee: I am not in a position to state the relative interests of the various communities. As far as Rangoon is concerned I can say with certainty. Outside Rangoon it is very difficult to say what is the proportionate interests of the communities. I should think the interests of the Burmans and the Indians as distinct classes would be far greater than the interests of the Chinese.

Mr. Hall: Then would you agree that separate representation should be given to all landlords irrespective of nationality?

Mr. Cowasjee: I think so. In the representation of an interest such as that of the landlords, I do not think there should be any communal difference.

Chairman: And the landlord is one who has something more than 300 acres or up to that?

Major Graham Pole: That was the definition we got yesterday.

Mr. Cowasjee: Again I am not in a position on the spur of the moment to give Your Lordship any expression of opinion which is worth considering.

Chairman: No; I was really only asking what your definition of a landlord was with regard to size of holding.

Mr. Cowasjee: I think I would accept 300 acres as a minimum qualification.

Mr. Loo-Nee: As I understood Mr. Hall's question, it resolved itself into two parts: the basis of the claim to separate representation, and whether it was a new claim. The question as to whether it is a new claim has not been answered by Mr. Cowasjee. My Lord, the answer to that question is, that this is an entirely new claim.

Mr. Cowasjee: I said the landlords had not been represented in the Legislature.

Mr. Loo-Nee: Therefore it is a new thing.

Chairman: Yes, I think Mr. Cowasjee did say that.

Mr. Loo-Nee: My other point will be introducing a new subject into this discussion, I am afraid. Mr. Cowasjee has fixed 300 as the acreage to be owned by a person to entitle him to this new right which is claimed. If foreigners come into Burma and they, by reason of their money, can own larger holdings than the people of the country, are the people of the country to have no rights, their rights being less than those of the people who are able to possess 300 acres and more?

Chairman: Would a foreigner have a vote?

Mr. Loo-Nee: By virtue of his holding of 300 acres.

Chairman: Would he?

Mr. Loo-Nee: If what Mr. Cowasjee has submitted to this controversy is correct; if representation is to be given to the landlords by virtue of their possessing 300 acres, if they are foreigners they come in, if they are not foreigners they come in; but what about the people of the country who have smaller holdings, and whose interests are identical with those of Burma? Are they to be neglected entirely just because they happen to own 150 acres or 100 acres, at all events less than 300 acres? That is my question.

Mr. Cowasjee: As a matter of fact, I think in a very large number of cases—there may be very few exceptions—the man who owns property in Burma has other interests. A foreign Indian landlord never invests his money in Burma for the purpose of investment in purchasing land. That has never been the case. You may call a landowner a foreigner, but he is no more a foreigner than any other person who resides in Burma, except that he does not belong to the indigenous race. He has his other interests in the country; he either resides or carries on business in Burma. I have no objection to some sort of limitation being placed so as to prevent a foreigner in the sense contemplated by my friend from voting, but I think for practical purposes the foreigner in the sense non-Burman who owns property in Burma would either be a person residing there himself or carrying on trade or business there, and the purchase of property would really be an investment of his gains in the country.

U Su: If you look at the numbers of the Legislative Council you will find that most of the members of the Legislative Council are landlords, because they have so much influence in the districts. They own about 1,000 or 2,000 acres, and so they could influence the workers in the district. I do not see that it is necessary that landlords should be given special seats.

Mr. Kim Seing: May I make this point clear. When I say Landowners Association I mean the Burmese Landowners Association, and **this question** has already been raised before the Indian Statutory Commission, when the landowners were questioned:

“ If there are any landowners in the present Council you would still want special representation?”

The answer was “Yes, we still require to have two representatives from our association because the landowners who are now the members of the Council may not represent us fully.”

Chairman: Does anybody want to discuss further the question of landlords' representation?

Major Graham Pole : I should like to ask how Mr. Cowasjee would define a landlord, and how many landlords are in the Legislative Council at present. In the Report of the Statutory Commission, Vol. II, page 75, it is said, in connection with special electorates that where the great landowners form a distinct class in any Province the Commission is of opinion that there is a case for giving them an electorate of their own, but they say it would not be very easy to organise them, and so forth. The point is, if they are already represented in the Council through other interests, do they require to be represented *qua* landlords?

Mr. Cowasjee: Their special interests as landlords are not represented in the Council at all.

Major Graham Pole: But are they there?

Mr. Cowasjee: Among the Indian community, if we except two out of the nine, the other seven are not landlords at all.

Sir O. de Glanville: The question was dealt with in the Memorandum submitted by the Government of Burma to the Indian Statutory Commission. At page 253 of that Report there is given an analysis of the elected members of the First Council by occupations, and it appears that 13 were barristers, 20 other lawyers, 3 landowners, 5 millowners, 23 merchants and traders, 2 bankers, 2 teachers, 1 contractor, 1 kheddah licensee, 1 journalist, 1 newspaper proprietor, 1 doctor, 1 mining engineer, 1 headman, and 4 retired Government servants. To the Second Council there were elected 15 barristers, 19 other lawyers, 8 landowners—I do not think I need read out the others.

U Aung Thin: Following other speakers claiming minority representation, I have the privilege of knowing their position in claiming for the Muslim community in Burma a separate representation. This community bases its claim, like others, partly on numerical grounds, and mostly on vested interests. I think my friends on the other side would not deny that numerically we come next to the Karens, and we have vested interests which also will not be denied.

Mr. Haji: Will you give some figures about your numerical strength?

U Aung Thin: U Ba Pe read out some figures the other day, and I have already stressed the point. The community is divided into four classes. I need not enumerate these classes. The first two are generally called Zerbadis, and the third and fourth are Burma-Muslims, but all four classes are also known as Burma Muslims.

These four classes together come under one nomenclature, namely, that of Burma Muslims. The Zerbadis number, according to the official figures, about 2 lakhs, and the third and fourth classes number a little more than 2 lakhs, because it is claimed that the Burma Muslim community as a whole numbers about 5 lakhs.

Chairman: That is for all Burma?

U Aung Thin: For all Burma, yes. I may stress the point, also, that when the present controversy has died down, my feeling is that this community, which is called the Burma Muslim community, will **increase**; their numbers will increase because then, those Muslims who

consider that they want to be in the country, will come round and see that it is both their duty and their interest to come into this community.

My submission to your Lordship is, that on the grounds of numerical strength and vested interests, this community is as entitled as other communities to separate electorates and separate representation. There is an additional reason for this, namely that we are one of the indigenous races, and I take it that some indigenous races, such as the Karens, were given separate representation as an additional guarantee to safeguard their rights. If the Karens are entitled to that treatment as an indigenous race, I submit, My Lord, that the Burma Muslims are still more entitled to the same privilege.

Chairman: Can you give us the number of representatives which you suggest they should have?

U Aung Thin: Yes, My Lord, I would not be very precise, but I would put it at half of what the Karens get.

Major Graham Pole: We have got a number for the Karens, I think.

Chairman: What have we got—a percentage?

Major Graham Pole: I do not think we have even a percentage for the Karens.

Chairman: When you said half of what the Karens have, you had obviously a figure in mind.

U Aung Thin: If the claim is 10 per cent. for the Karens, we might have five per cent.

Major Graham Pole: I thought the claim of the Karens was for 20 per cent.

Mr. Loo-Nee: No.

Chairman: What was the claim?

Mr. Loo-Nee: Roughly about 10 per cent.

Chairman: That would be 20 in a House of 200, and the Burma-Muslims would claim about 10 as being half that.

U Aung Thin: If it be 200, that percentage is given merely as an indication of the claim.

Chairman: Yes, quite so. I am not trying to pin you down to a percentage. I want to get some idea of what you claim.

U Aung Thin: At present, taking the basis of 100 seats in the Council, I think about two or three is quite enough.

Mr. Wardlaw-Milne: May we get that clear: on the basis of 100 seats?

U Aung Thin: Yes.

Mr. Wardlaw-Milne: But I think we agreed yesterday it would be wise if we kept to the basis of percentages, as the total amount of the House has not been fixed. I think this may give rise to misunderstanding if we get back to numbers.

Chairman: I was just now taking my hypothesis of 200 because I can calculate the percentages far more quickly than I can if I am taking a lower number like 150 or 125. It is pure hypothesis. I wanted to get some picture in my mind both of percentages and numbers.

Mr. Wardlaw-Milne: Yes, but what has been said is two or three in a House of 100.

Chairman: If it is two or three in a House of 100 that would mean four to six in a House of 200; Is not that so?

U Aung Thin: Yes.

Major Graham Pole: Then it would be two to three per cent. instead of five per cent.

U Aung Thin: Well, that is the minimum. Of course when others are making claims I have to come down to a certain ratio of that percentage; and in coming to that I said, or intended to say, I would be satisfied with half that percentage. But if you want me to be more precise, then I say that three on the present basis would be quite satisfactory.

Major Graham Pole: Whatever the Karens get?

U Aung Thin: Yes.

Chairman: Yes, I think he was taking the Karens as a standard really, and then by reference to that standard was making a claim.

Major Graham Pole: But, My Lord, he is not basing it on that. If the Karens claim 10 per cent he says he would be satisfied with three in the present House. That would be only three per cent against the Karens 10 per cent. It would not be half.

U Aung Thin: Yes.

Mr. Cowasjee: May I point out to my friend that according to the statement here, the Karen population is 1,100,226, whereas the Zerbadis population is 178,976.

U Aung Thin: Of course, one assumes that my learned friend will take into the Indian category all those whom he prefers to call Indians, but not those who do not prefer to call themselves Indians. They prefer to call themselves Burma Muslims. My friend, therefore, leaves altogether out of calculation the third and fourth classes which were given up by my friend U Ba Pe.

Mr. Haji: Is not it correct that the Burma Muslims, that is, the men who choose to be termed as such—number only, as Mr. Cowasjee pointed out, 182,000 odd?

U Aung Thin: No, that is the Zerbadis. My friend has not been long in Burma.

Mr. Haji: No, but the figures are here.

U Aung Thin: Yes. If you do not understand I will tell you, that the figures given are specifically for the Zerbadis, covering the two classes mentioned by U Ba Pe, the first and second class.

Chairman: Yes, I think you have stated that quite clearly.

U Aung Thin: That is all, My Lord, about this point.

Chairman: I think there is some difference of opinion here: Mr. Cowasjee, I think, is claiming all the Indians, which he can put together, if I may use the expression, and that some of those Indians, under a different heading, you are claiming. Is that not so?

U Aung Thin: Quite.

Chairman: And, therefore, if those you claim are deducted, Mr. Cowasjee's numbers are decreased?

U Aung Thin: Yes, of course, Mr. Cowasjee's number will be decreased.

Chairman: I mean we are partly dealing with the same persons under different aspects, are we not?

U Aung Thin: Exactly, My Lord.

Mr. Cowasjee: It is only about 178,000 people, a very small extent. The Indian population, 1,017,000. In the elective area 9½ million and the Indo-Burman race, 178,000.

Major Grahame Pole: But *U Aung Thin* claims some of yours.

Mr. Cowasjee: He cannot.

Chairman: I think the answer is that he does, is it not?

Mr. Cowasjee: Has he authority to do so?

Lord Winterton: I want to get clear between these conflicting claims. Is it Mr. Cowasjee's contention that all Indians vote according to their community and not according to their religion?

Mr. Cowasjee: They are all Indians, My Lord. After all, paternity determines the race. Their fathers are all Indians, and they all vote as Indians.

Lord Winterton: Do the Indians in Burma, contrary to the practice of the Indians in India, vote as a race, or according to their religion?

Mr. Cowasjee: In Burma we have not had any Hindu-Muhammadan differences, and since the establishment of the Reforms Indians have voted as one community, and no question so far has been raised on behalf of the Muslims that they should have a separate electorate.

U Maung Gye: The Burma-Muslim races include other people besides the Burmans. There are the Kalais also, and if that is so what is the relative strength of the Kalais and other people of mixed marriages?

U Aung Thin: I cannot be very precise on this point, but I have been instructed by the Burma Muslims to follow their line of representation. The official figures are confined purely to the first two classes, purely Burmese or mixed Indian and Burmese. That is the first two classes, and they are given as two lakhs, and they assume—of course, it is an assumption; how they come to that figure I do not know; perhaps they might have applied the same direct method which Mr. Haji applied yesterday—that the last two classes, the third and the fourth classes, come in to make up five lakhs. That is my belief. I cannot be more precise.

Tharrawaddy U Pu: Is it not true that Burma-Muslims now are elected by the general constituencies? There are already, as far as I can make out, five of them in the Burma Council of 103 members. There are *U Aung Thin*, Mr. Yussuf, Mr. Ghine, Mr. Raffe and Mr. Khan, as far as I can remember now. Is it not true that they have come to the Council from the general constituencies, most of them?

Mr. Cowasjee: Is that true of Mr. Raffe?

Tharrawaddy U Pu: Well, there are many Burma-Muslims in the Burma Council who are elected by the general constituencies. Is that not true?

Mr. Cowasjee : Yes.

Tharrawaddy U Pu : And U Aung Thin himself was elected by the general constituency of Mandalay, where Burmese predominate. Then, again, U Aung Thin claims that he should have half of the percentage claimed by my friends, the Karens.

If I understood them aright, I think they do not want to claim communal representation at all. They want special electorates, and they claim to be one of the indigenous races, which is quite true. I hope that Burma Muslims, also, will claim as one of the indigenous races, and if the Karens, after some discussion and consultation come to waive the claim for separate electorates, I should like to know whether U Aung Thin will do the same on behalf of those for whom he speaks.

U Aung Thin : That contingency has not arisen. When it arises I shall be prepared to answer the question.

It has been said that we already have two members (of whom I am one) returned by the general constituencies to the Legislative Council. But it does not follow that there will be no further difficulty attaching to these members being returned afterwards. The realisation of this difficulty of ensuring the representation has led us to put it forward for the consideration of this Conference.

As I have said, we are on the subject of distribution of seats in the Council. I might, however, draw Your Lordship's attention to the accepted view of the Government reported in its Memorandum submitted to the Indian Statutory Commission at page 564, para. 11. It relates to the South Arakan constituency and the Sandoway District. I will just read the last portion :—

“ The Commissioner, Arakan Division, has again been consulted, and in view of the extension of the franchise proposed in para. 8 of this Memorandum, the Local Government accepts his recommendation that the District of Sandoway should now be erected into a separate constituency, alongside of the Kyaukpypu district, which will, in future, return a member of its own. The change will thus have the effect of adding one seat to the five which the Arakan division now possesses. ”

My third point is about the desirability of the indigenous trading interests of Upper Burma having representation in the new Legislature. Your Lordship will realise the extensive area of this Province of Burma. Therefore the indigenous trading interests who are scattered about Burma, and have their centre at Mandalay, should have their interests represented in the Legislature so that the Legislature may have the benefit of knowing their views.

Yesterday, My Lord, Sir Oscar spoke on the subject of nomination. It seems to me, that in any franchise, there will still be room for nomination for certain interests will go unrepresented in the Legislature. It seems, therefore, that a wide margin should be left in the hands of the Governor to fill gaps like that, and I would support Sir Oscar, without limiting the number of nominations to five.

Tharrawaddy U Pu : What do you think should be the maximum?

U Aung Thin : Not more than the maximum to-day—seven.

Major Graham Pole : Does our friend admit what Tharrawaddy U Pu says, that there are constituencies, general constituencies, where

the Burma-Muslims predominate and where they would be likely to be elected in the ordinary course?

U Aung Thin: That is not true. The difficulty with regard to our community is that we are so scattered over the Province. Even in Mandalay our community are in a minority, and cannot return a single representative.

Tharrawaddy U Pu: Yet you are returned?

U Aung Thin: I am emphasising the difficulty, and you must admit the difficulty we have.

Tharrawaddy U Pu: But you have surmounted the difficulty.

U Aung Thin: Yes, but we want to be on the safe side henceforth.

Major Graham Pole: You may have representatives now, but you do not think you will always get them?

U Aung Thin: Just so.

Mr. Haji: May we have some of the difficulties my friend mentioned?

Chairman: I understand the main difficulty to be that they are so scattered over the country.

U Aung Thin: My last point is this. This subject of the distribution of seats in the Council has something to do with the size of the Council. There is a tendency to enlarge the Council. I am afraid, My Lord, that owing to the present financial stringency and the very poor outlook for the future in respect of revenue and the provision of finance, if the Council is to be enlarged the increased expenditure should be met by reducing the allowances now being given to the members, and that, I think, would be a suggestion to which other members would agree.

Chairman: Do you think that would be passed quite easily in the Assembly?

U Aung Thin: I doubt that very much.

Mr. Haji: With regard to the points raised by my friend U Aung Thin, in view of the importance of the subject, I think it is necessary to have it elucidated a little further. In a sense, it represents a contest of interests between various sections of the population in Burma, and it is also a question of nomenclature. My friend has spoken with reference to the Burma-Muslims. Now, if I understand the situation correctly, the main body interested in this question is the Burma-Muslim Society. I take that organisation to be perhaps the only or, at any rate, the most representative and predominant body. I dare say my friend is a prominent member of that organisation, and first of all I should like to know from him if I may, the number of members of that body. May I have that figure, please?

U Aung Thin: I am afraid I cannot give you the exact figure at the moment, but I will supply it later.

Mr. Haji: If we are going to have a satisfactory result from these discussions, we must have the figures, and I do hope it is possible for an eminent member of an organisation to give offhand the figures for the organisation of which he is so leading a member.

U Aung Thin: I am not a member of that association.

Mr. Haji: Here we have a gentleman claiming to speak for an important organisation, which he admitted was the most leading body. I want to know its constitution, its size and its membership. If he is not in a position to give us the number of members, may I know where the headquarters are situated?

U Aung Thin: In Rangoon.

Mr. Haji: How many branches are there?

U Aung Thin: I am afraid I cannot give these details until time is given to me.

Chairman: Do not you know the answers to these questions, Mr. Haji?

Mr. Haji: I expected them, but I am prepared to proceed on the footing that I shall not be able to get them.

Chairman: I rather assumed they were of what is called a rhetorical order, and that you knew quite well what the answer was.

Mr. Haji: Very well, My Lord; that is exactly what I was after. I am obliged to my friend for not having forced me into exposing their rhetorical character; so that we know exactly what the footing is. Then, even though we have not got a bit more information on the subject that I want, there are some points that I would still like to bring out, if you would permit me to do so. This Burma-Muslim Society is an organisation run in a manner which prevents the effective membership of people, whom some of the leading men of this Society are very anxious to exclude. According to its rules, full membership—that is along with voting power—is given only to Zerbadis, and none of the other Indian Muslims can have access to the Society. And yet we are told that this Society speaks in the name of 500,000 Indian Muslims in Burma. That is a most atrocious proposition, My Lord. It is a body of which we do not know the strength and of which we do not know the extent, either in numbers, or in territory, because we do not know what the branches are. We have heard the headquarters are in Rangoon, but we do not know how many members there are in Rangoon. It may be just a few hundreds; it may be even less. Moreover, My Lord, as I pointed out the other day when my friend U Ba Pe raised the question, until now, there has not been in Burma any such term as "Burma-Muslim." When I say "until now," I am referring to the very last census. There is official authority for the statement that for the purposes of census or politically there was no such term as "Burma-Muslim." It is because there is no such term as "Burma-Muslim" that we could not tell the membership of the Society. For all practical purposes there is no such thing as a Burma-Muslim politically. Of course, socially, I am prepared to admit that there is such a thing; but politically, numerically and in all other matters that count—

Tharrawaddy U Pu: But what is the difference between Zerbadi and Burma-Muslim? There is no difference.

Mr. Haji: My Lord, the point is this, that until now there has been no such distinction, and these attempts of interested parties to divide and reduce the strength of the Indian community I hope will cease. I trust that what has passed here this morning is quite enough to bring out in its ridiculously small character the scope and the

purpose of the parties concerned and the organisations whose names are being exploited for a purpose like this. Moreover, My Lord, my friend Mr. Cowasjee and I stand here to represent——

U Ba Pe : Question !

Mr. Haji : You can keep on saying " Question. " Of course, my friend questioned that minorities exist, but we are now glad to find that he is working on the footing of the existence of minorities ; and I hope before I finish he will be able to take my presence here and the presence of my friend as indicative of our representative character.

We have both been elected to represent the views, myself of the Chamber of Commerce, and my friend of the Burma Indian Association, the two bodies that in Burma include all that there is Indian in character.

Allow me to say that in our Chamber, as also in the association, a large amount of membership consists of Burma Muslims who are merchants. There is no question of proportion at all. All Zerbadis have vested interests. All the important people who have been in Burma for the last thirty or forty or fifty years are in the Landlords Association. Roughly speaking, practically every vested interest of the Indians in Burma, or the Burma Muslims, if we must have that term, is included in our body. Therefore, I should like to resist as strongly as I can, and I should like this Conference also to support me in resisting, any further demarcations than those that are absolutely essential. Let us proceed on the footing of what we have to date. Of course, if you want to introduce a further element of discord in Burma, if you want to see, in the fulness of time, more troubles and riots between Hindus and Muslims ; you can start on that path ; but if you want to proceed on the path of concord and goodwill among the communities, a path along which all these Indian communities have moved since the Reforms, then I say, My Lord, that it is most imperative that we should not here, in this Conference, recommend any further sub-divisions than those which are patent, and which, as facts, have got to be assumed.

My attention is drawn to the fact that the accord between the two communities can be proved. I do not think it is necessary to prove it, but if you want a negative way of looking at it, there has been, so far as Burma is concerned, no Hindu-Muslim conflict at all, and I was very glad that, in reply to the question of Earl Winterton, my friend was able to say that in Burma, whether a person is a Burma Muslim or a Hindu or a Parsee or a Jain or a member of the Depressed Classes, you have not, fortunately, in Burma those distinctions which disfigure the population question in India. That is why I beg of you all to bear in mind this fact : Let us not create disorder where there is amity. Of course, I quite appreciate my friend having raised that question here. He told us that he had a mandate to do it. I do not want to belabour him for doing it, because, if a person has been asked to do something at a Conference, he must do it ; but it is for the rest of us to sit in judgment upon the character of that mandate. Simply because a mandate is there it does not mean that it has got to be accepted. I can appreciate a member putting up his case, but that case must be judged ; it is not to be

accepted because it has been put up; it can only be accepted because we deem it worthy of further discussion, and I trust that here we shall decide that the contrary is the case.

There is one other question which I should like to raise. It has nothing to do with this subject, but as you will perhaps be winding up the general discussion on nomination I would like to say, without going into the details of the numerical strength of the nominated members, that the method of nomination, in my submission, should be allowed to continue, because, after we have prepared a constitution and divided up the voting strength in the Legislatures, we might still find that there are interests—maybe Burmese interests, maybe Indian interests, maybe any other interests—that may not get a chance of being represented; and until that stage is reached I should like to have this question kept open.

Furthermore, I should like to suggest that nomination should be kept in view with a desire to find scope, if need be, for such interests as would otherwise not be represented in the Council.

Mr. Wardlaw-Milne: Do I understand from what Mr. Haji has now said that he has altered the opinion he expressed yesterday to the effect that the question of nomination was not worth considering at all? I thought it was Mr. Haji who said that.

Mr. Haji: I supported nomination.

Mr. Wardlaw-Milne: But I rather remember a speech of Mr. Haji's in which he suggested that it was not worth while considering any question of nomination at the present time. I am rather glad that he now thinks that there may be under the new Constitution certain interests which will not be represented other than by nomination.

Mr. Haji: I only spoke on this matter this morning because I thought that yesterday I had not referred to the question at all.

Chairman: Anyhow, that is your view to-day, and we will not mind about yesterday.

Mr. Haji: It was my view yesterday, too, My Lord.

Tharrawaddy U Pu: May I ask one question? U Aung Thin has put forward a case on behalf of the Burman Muslims. A number of these—the number is not given here—are Zerbadis. Will he define the difference between the Zerbadis and the Burma Muslims. The number of Burma Muslims could not be given by U Aung Thin, but the number of Zerbadis is given here, in Statement B. Can we be told whether the Zerbadis and the Burma Muslims are the same, or, if there is any difference, what that difference is?

U Aung Thin: Broadly, what are called Burma Muslims are divided into four classes. The first class consists of those born of purely Burmese parentage. The second class consists of those born in Burma, but of mixed Indian and Burman parentage. The third and fourth classes consist of Muslims born of Indian parentage either in Burma or outside Burma, but who have settled down in Burma permanently. "Zerbadi" is a term confined specifically to the first two classes.

Tharrawaddy U Pu: Who made that definition? Was it given by the Government of Burma?

U Aung Thin: That is the accepted definition by the Government of Burma.

Mr. Haji: May I say a word to clear up this point? My friend was not in a position to say where he got the definition, but from the other point of view I can say this, that the definite government ruling at the time of the last census was to the effect that for the purposes of the census or politically there is no such term as "Burma-Muslim."

Tharrawaddy U Pu: What statement is that?

Mr. Haji: It is by the Chief Secretary.

Major Graham Pole: If we carry Mr. Haji's argument about not making these distinctions a little further, we might do away with all racial distinctions, and class everybody in Burma as a Burman.

U Ni: I should like to know whether Mr. Haji would deny the existence of Burma Muslims from very early times, although their numerical strength may have been very small.

Mr. Haji: We are really here concerned with the political aspect of the whole question, if I may say so. I quite agree with my friend Major Graham Pole that, if possible, the best solution would be to proceed on the footing of one nation, but, if that is not possible, then let us keep the divisions as few as possible, and do not begin to divide and sub-divide in the interests of the nation that is to be.

Chairman: I do not think that answers the question that you were asked by U Ni.

U Aung Thin: If a certain consideration applies to one section, it should apply to others also.

Tharrawaddy U Pu: There should be no British and no Indian constituencies; all the constituencies should be Burmese constituencies. We should have no objection to that.

U Maung Gye: Personally, you are in favour of abolishing the whole communal system?

U Aung Thin: It must be only temporary. It cannot be a principle on which any nation could be based.

U Ba Pe: I was very glad, My Lord, to hear the remark that fell from Mr. Haji, that it would be a good thing if all the communities in Burma would regard themselves as Burmans, and if we did away with this vicious system of division and sub-division, and so on. In joining in this debate, my whole object is to show, as far as the information I have at my disposal goes, that it is to the interest of all concerned to approach this question of minorities with as broad a view as possible; and, if there is any difference of opinion, it should not be regarded as indicating hostility to the other side. As far as we are concerned, we have at heart, not only the welfare of the majority, but the welfare of the minority also; and in finding ways and means I do not want it to be thought that I am hostile to their interests or trying my level best to go against them.

The other day I made the statement that, according to the League of Nations definition of the term, there are no minorities in Burma. I did not say there were no minorities, but what I meant and still mean is, that a minority worthy of protection must have some specific

basis to go on, because if you admit a minority should have special protection there will be hundreds of thousands of minorities in Burma, and you will be led into an impossible position.

In the first place, therefore, we have to determine who are the minorities and what are the special interests in Burma. From the discussions yesterday and to-day it seems that the following claim to be minorities; the Indians, the Europeans, the Karens, the Anglo-Indians, the Burma Muslims and the Chinese. The special interests are those of Indians, Europeans, Landowners, Labour, and so on. Before going any further I should like to state a few broad principles. The minorities are making claims. Now what are those claims that they are making? It is very finely put in a book as to the nature of the interest which any minority will have to claim and which must be considered. These are the claims usually put forward on behalf of minorities recognised to be worthy of protection.

Mr. Haji: What book is that?

U Ba Pe: "The Protection of Minorities."

Mr. Haji: By whom?

U Ba Pe: By Mayer. This is the passage I want to quote:—

"Minorities demand complete economic equality with the majority of the population. State interference in industry should not be exercised to the detriment of minorities. Members of minorities should not be prevented from carrying on their professions and their property should receive the same protection from the State as all other private property. No distinction between majority and minorities should be made in legislation and taxation, particularly in economic and agrarian reform. Equality in this field should be secured by the development of legal protection for minorities and by allowing them to be fairly represented in the administration of the State."

Mr. Haji: My Lord, before any conclusions are drawn from this quotation, may I say that this book "The Protection of Minorities," deals with minorities in the new States created by the League of Nations.

Chairman: What do you mean by the new States?

Mr. Haji: States like Czecho-Slovakia.

Chairman: You mean in Europe?

Mr. Haji: Yes, following the European War. The other day I think it was you, My Lord, who mentioned that we cannot discuss the Burma question on the footing of the new States created by the League of Nations. I am just drawing attention to this fact.

Chairman: I was quite alive to that fact. I think you had better wait. We will hear U Ba Pe and then, if you have criticisms, you can make them.

U Ba Pe: My idea is that we must have some guidance concerning this question. In Europe, these are the things demanded on behalf of the Minorities, and I want to know what are the things demanded on behalf of the minorities in Burma. My point is: Can

their rights and claims go beyond what is stated here? Do they want anything more than what I have read out just now? That is the first point.

If they do not want more than this, then on this basis I want to consider the position of minorities in Burma. I have read out the so-called claims on behalf of the minorities in Burma. How far they are applicable to Burma I will proceed to consider one by one. I will take the Europeans first, because they are the most predominant race in the world at present—I mean the Britishers. According to the official figures given here, we have for the whole of Burma 11,924, and for the elective areas 11,123 Europeans in Burma. Now what are they? They are public servants—that is, those who are in the Government service. They are members of various firms—big British firms operating in Burma. They are members of various professions: doctors, engineers, lawyers, and so on. Now the interests of Europeans in the Government service can be protected and will be protected, not by having a representative in the Council or a seat in the Council, but by having provisions in the Constitution itself guaranteeing their rights and privileges and so on. Surely, they do not want to send a representative to the Council on their behalf. I am talking about the Government servants. As regards the others, the commercial firms, and so on, or those who are working in those firms, their interest is commercial and not political—that is to say, their interests are special and not communal. With regard to those who are in the professions—for instance, the right of the lawyers to appear in the Law Courts, or the right of the doctors to practise in Burma, or the right of the engineers to practise in Burma—all these can be dealt with easily by granting them the right in the constitution by drawing up a declaration of rights. That is not a communal question. There is nothing to represent in the Council on communal grounds. These are all special interests, and can be met easily, not by communal representation or by providing special seats in the Council, but by provisions in the Act itself granting them the rights they deserve and that they ought to get.

Besides that, are my European friends so weak that they cannot defend themselves against the other majorities or the other communities? Can we imagine that the Europeans are so weak politically or industrially or in any other respect, that they deserve special treatment in this most vicious form of communal representation in the Council? If the Europeans admit that they are weak people, that they cannot help themselves unless recourse is had to this vicious principle—well, have it; I do not mind; but is it in accordance with your claim to be a first-class race in the world, the leading race, the most dominant race and so on, to say that you must have protection against people in Burma because you are helpless? I think I have indicated enough to make my European friends think that by making this claim for communal representation they are not only doing injustice to themselves; they are opening the way to disorder and disunion in the country in future.

As regards the special interests of the Europeans there should also be special provisions granting them the same privileges as others. I am against discrimination of any kind, and I do not want the European merchants in Burma discriminated against by law or

otherwise; but, at the same time, I am against allowing the Europeans or any other community to have an advantage over the other people by discrimination of this kind.

Chairman: Does your observation apply both to communal separate electorates and, also, to nomination by the Governor in case he considered that certain interests were not represented by election?

U Ba Pe: Yes. We do not want nomination in any form or of any sort, or any communal representation—in the Lower House, I mean. In the Upper House there will be 25 per cent. nominated members. In the Lower House we do not want any nomination.

Chairman: You want it simply divided up into equal constituencies, and everybody voting in the same way?

U Ba Pe: Freedom for everybody, yes; no discrimination.

Sir O. de Glanville: May I ask a question on that point? *U Ba Pe* says he has finished the European question. Does he admit that Europeans should have, somehow or other, representation in the Council? If so, how would he give it?

U Ba Pe: By asking my European friends to identify themselves with the interests of the whole country. In that case they can get into the Council easily. I will give you an instance. In the first Council elected in 1922, a gentleman, by name, Mr. Lamb, manager of the Burma Oil Fields at Yenangyoung, got in by Burmese votes, because he worked for the labourers there. He was well known to the people in the constituency, he was very popular, and he got in.

There is no necessity, therefore, to have special seats for the Europeans. If the Europeans will identify themselves with the interests of the people and of the country they have a better chance than any others to get into the Council without recourse to communal seats.

Chairman: You said that you wanted all these rights of minorities secured, I think, by declarations in the Statute. Supposing those declarations, unfortunately, become infringed in some way. How are the small communities to make their claim or assert themselves? Is it not much easier for them to do it if they have some form of representation in an Assembly where they can immediately get up and voice their grievances?

U Ba Pe: In the first place, who is going to infringe their rights? Are you assuming that the majority will infringe their rights?

Chairman: Majorities, I am afraid, in most countries do sometimes infringe the rights of minorities. Anyhow, if they are never likely to infringe those rights in Burma, it is superfluous in a sense to put these rights into the Statute.

U Ba Pe: In Burma, My Lord, it is the minorities who are infringing the rights of the majorities.

Chairman: You are of opinion that in no case could the majority infringe the rights of the minorities? You think it almost inconceivable?

U Ba Pe: It is inconceivable in Burma.

I will proceed next to the question of the Anglo-Indian community. But, before I do so, there is one point I omitted with regard to the Europeans. At present they have four seats on the Council, one on a

communal basis, and three on a special electorate basis. Mr. Harper said, I think, that they wanted the representation raised from 5 per cent. to 11 per cent.

Sir O. de Glanville: Three nominated, making seven in all at present.

U Ba Pe: You want it raised to ten.

Now, as to the Anglo-Indians. These have one seat on a communal basis, and I believe that it is desired that it should be doubled under the new Constitution. The name "Anglo-Indian" is rather misleading. In Burma we have two classes of Anglo-Indians. One class is known as the Anglo-Burmans, that is, descendants of European and Burmese race. The other class, Anglo-Indians proper, are descendants of Europeans and Indians in India. Then there are a few pure Indians who change themselves into Anglo-Indians by the simple expedient of calling themselves by a different name. "Mr. Devadasan" becomes "Mr. Davidson," and so on. You may have pure Bengalese gentlemen giving up their national habit, changing their name, and becoming entirely Europeanised.

Therefore the Anglo-Indian community is composed of various people. In Burma, these Anglo-Indians are very generally employed in the Government Services, the Post, Telegraph, Secretariat, and also on the Railways. Very few are outside the Services. The rights and privileges and the other provisions which these people want are not on communal grounds; they will have the same privileges as others if they acquire citizenship in the new Burma State. Most of these gentlemen are there in the services, and they are liable to be transferred back to India, so that it is not clear what proportion of these gentlemen have the intention of settling down in Burma. Most of them may, but it is left to them. At present, they are subject to the Government rules and they are liable to be transferred back to India.

I do not know, therefore, for whom we are concerned when we talk about Anglo-Indians. Do we refer to those who intend to settle in the country permanently, or to those who come to Burma temporarily, as in the case of those serving in the Posts and Telegraphs Department? I do not think we need consider those who are not going to settle down in the country; our attention should be confined to those who are going to settle down in Burma and who will have an abiding interest in the country.

On that basis, you will find there are very few Anglo-Indians indeed whose claims can be considered on communal grounds. Their claims, like that of Europeans in the Services and others, can best be met, I think, by the provision in the Statute of guarantees for their rights; but another difficulty is added in the case of this particular community, because the Anglo-Burmans are against communal representation; they do not want it.

Sir O. de Glanville: I apologise for the absence of Mr. Campagnac to-day. He asked me, if any question arose relating to his community, to deal with it if I possibly could. I venture to doubt that last statement.

U Ba Pe: I said the Anglo-Burmans; that is, those descended from Europeans and Burmans. The Anglo-Burmans are against communal representation. There is an organisation in Burma known

as the British Burman Association. They do not call themselves Anglo-Burmans, because they say their forefathers were not English only, but Scotch, Irish and Welsh, and so they call themselves British Burmans. Their association is definitely opposed to communal representation in any form, and so it cannot be said that the Anglo-Indian community, as whole, is out for communal representation. It is only a small portion for whom we are asked to provide communal representation, and I say we should not do it; but their rights and privileges should be guaranteed somehow, and the best course, in my opinion, is to have statutory provisions on their behalf, as in the case of other communities.

I now come to the Chinese. The Chinese have two interests, one communal and one special. The number of Chinese in the elective area of Burma is 121,752 and in the whole of Burma it is 193,594. You must understand that all the Chinese in Burma are not full-blooded Chinamen; they are a very mixed community. We have, first of all, those subjects of the Chinese Republic who come into Burma from China and who are not British. There are also the Chinese who come from British possessions like Singapore, and so on, and carry on business in Rangoon, and then there is a mixture between Chinese and Burmans, what we call the Sino-Burmans, like my friend Mr. Kim Seing. There are practically two sections, British and non-British.

Of course, we cannot take into consideration the non-British section of the Chinese community. Now, what is the proportion of non-British to British in this Chinese community? That is a very important point. If you go into it deeply you will find that the non-British element is in the majority. So there is no case for communal representation for the few Chinese or the mixture between Burmese and Chinese, because they speak Burmese, they are Buddhists, they are associated with Burmans, they move about with, and live with the Burmans, and there is no difference whatever.

Mr. Kim Seing: May I make it clear on this point that I have not claimed communal representation for the non-British?

U Ba Pe: No. So that they identify themselves with the Burman people. They can always get into the Council with Burmese votes, as in the case of Mr. Hoe Kim Seing, returned by the Burmese. I purposely brought this in because I wanted to show later on, some very important points with which I will not deal just now.

As regards the Chinese commercial interest, there is such an interest, but what I cannot understand is this: Can it exist apart from the Burmese interest? Can it be separated from the Burmese interest? I have grave doubt, but if it can be separated, and if it must have the same consideration as others, then there will come under statutory provision as in the case of European and other special interests.

Now, I come to my friends on the left, the Indians in Burma. The Indians in Burma always create a difficult problem to us, because the community is, broadly speaking divided politically—if you like to say so, divided into two groups. One group consists of those who have permanently settled in the country, and the others are only temporary residents. According to the figures given in this statement, there are 955,338 in the elective area, and 1,017,825 in the whole of

Burma. These figures appear to be very formidable at the start, but if you examine them closely I am afraid you will find they are not so formidable. As pointed out by Mr. Aung Thin, in these figures you have what is known as the Burma-Muslim also. Now the Indians temporarily resident in Burma will have to be deducted from this because they will not be permanently settled in the country. In the statement provided by the Conference Secretariat, the Indian population is given in males and females. In the whole of the area there are 733,911 males and 253,914 females. You will notice the great excess of males over females. Why is it? Because most of these people have families in India; they come to Burma only for a temporary purpose, for trade, for practice and so on. The female portion mainly form those who have settled down in the country. So that you can roughly say that out of 733,000 in the whole of Burma, only somewhere about 300,000 are settled down in the country.

This is also confirmed by the fact that there is a big floating population in Rangoon town especially, the coolie population which, according to the figures given before the Conciliation Board—that is the Board that tried to conciliate the differences between the Burmese and Indian labour in Rangoon—was just over 300,000 a year. So that if you deduct 300,000 from over 900,000, you have just over 600,000. If you take from those the other section, the more or less indigenous section, the Burma-Muslims—not the Zerbadis—you will find that the Indian settlers in Burma will not be more than 200,000 or at the most 300,000. So we have to consider this community of 300,000 apart from the Zerbadis, because the Burma-Muslims are claiming separately. Now, what are the interests of these people? As far as those who have settled down in the country permanently are concerned, they have no other interests than the Burmese people have in the country. Otherwise they cannot have special interests over and above the Burmese community. But do they need protection if they have not the special interests? If you properly consider it, you will find that they do not need any protection, because they are a virile race, quite capable of looking after themselves. They are not weak people, and, as the object of protection to the minorities is not to turn them into a smaller State within the body politic of the whole country, there is no need for communal representation for this body also.

Now you have heard of this demand for communal representation, and we have two representatives here. I will refer to my friend Mr. Cowasjee solely, because Mr. Haji is supposed to represent the commercial or the special interests.) Now, I do not think Mr. Cowasjee really represents the Indian view. I am sorry to say that, but I will repeat that I do not think he represents the Indian view correctly here. Just before we left, or just after he left, I think, certain correspondence in the papers showed the actual state of affairs in the so-called Indian community. Mr. Cowasjee was elected by the Indian Burma Association. I wonder how many members there are in that Association? As far as I know, at the time of the election there were about 30 or 40, but since then the membership has increased to 300, I think. A great effort was made to increase it. But unfortunately, the constituency was divided hopelessly. One section denied that Mr. Cowasjee represented them

at all. In any case, there is no unanimous support, and who are the people fighting like wild cats claiming to be represented by somebody but not by Mr. Cowasjee? Most of these members are not what you may call permanent settlers in the country; they are more or less people coming over to Rangoon for business and other purposes and who go away as soon as they have finished their business. Take my friend Mr. Haji. He is not a permanent settler in the country. He has been in Burma for the last year or so. He is not going to settle down in the country. Most of the people in that Association are gentlemen of that type. Now, can we allow these gentlemen, who have no abiding interest in the country, who go there for quite temporary purposes, to have a full say on behalf of the permanent settlers? Those people who are already in the country do not say anything about special representation; those who will be there for ever say nothing about it; but the temporary residents in Burma, making use of the name of those permanently settled down in the country, are claiming communal representation and all sorts of protection. Are we to allow that? I do not think it is fair to the people of the country to allow such claims.

As regards the special interests that the Indians have—yes, they have them, but unfortunately they are exaggerated, very much exaggerated. Mr. Cowasjee spoke about a hundred crores in the country, and Mr. Haji said the proportion of wealth belonging to the Burmans, including the Karens and other communities, is 50 per cent., the Indians 25 to 30 per cent., and the rest belongs to my friends over there, the Europeans. I am surprised to hear such a claim. It is absurd in the extreme, meaningless as a matter of fact. What is the method and what is the basis by which he has come to that conclusion?

The interests of the minorities, Europeans and Indians both combined, cannot be more than the interests of the rest of the whole country. I cannot imagine that that could be the case. If it is so, the country belongs to them already, and there is something wrong somewhere in the policy of the Government.

Mr. Haji tried to make his claim good by quoting figures. I have here a volume entitled "The Wealth and Taxable Capacity of India" by two Indian gentlemen. A reference to this book will show that Mr. Haji's idea of the distribution of wealth in Burma is highly erroneous. On page 286 the wealth of the Indian Provinces is calculated Province by Province for 1922-23. This is what they have come to for Burma:—Agriculture, etc., 387 million rupees; Industrial Wealth, 92 million rupees, making a total of 479 millions, which is 47 crores, and yet we have Mr. Cowasjee talking of 100 crores. I beg you to look at the statistics given in this book.

The permanently settled section of the Indian community and the Zerbadis are not really keen for communal representation. They want it only because others want it. If the others did not get it they would not want it. The Zerbadis are not out for communal representation for its own sake, though if the other communities are going to have it then they would claim it also.

Mr. Isaac Foot: Before U Ba Pe concludes, will he tell us, seeing that he wishes to have the position of the minorities safeguarded in the Constitution—which would mean, I suppose, that the Governor has to intervene—how in the absence of the expression of their views in the Legislature their interests can be adequately safeguarded? Would it not be a bad thing for the Constitution if the Governor had to intervene later on, with all the opportunities to which that might give rise for friction?

U Ba Pe: I will come to that when I sum up the whole thing. I will not answer just now, because the same answer that I could give would apply to other cases.

I think I am correct in saying that the Burma Muslims will claim communal representation or special protection only in the event of other minorities getting the same thing. If other minorities are not going to get it, they also are not keen upon it. I think I correctly express the position of my friends the Zerbadis. The permanently settled portion of the Indian community are not out for communal representation at all, because, if you go through the election results of the last three general elections in Burma you will find that these people are better off on a non-communal basis than on a communal one.

In the first election in 1923, there were nine non-Burmans returned to the Council from general constituencies, in addition to those returned by the communal electorates specially kept apart from them. There were three Indo-Burmans, two Karens, three Sino-Burmans and one European, making altogether a total of nine. In 1925 there were no Europeans, four Indo-Burmans, four Sino-Burmans and two Anglo-Indians. In 1928, there were four Indo-Burmans, three Sino-Burmans, two Anglo-Indians and two Burmese-Christians, making altogether 11. You will see, therefore, that a number of people belonging to communities for which special seats are allotted are also able to be returned through the general constituencies, where it is supposed that Burmans alone can get in and where the Burman voters are in the majority. It shows conclusively that they are getting into the Council without this special communal representation.

I think that will be quite sufficient to indicate the small section of the Indian community, which is clamouring for communal representation or special representation, is mainly composed of non-settlers in Burma; that is to say, people who come to Burma for business purposes and not with the intention of settling down in the country permanently. We cannot admit a claim from such a source, but I am willing to admit that their commercial rights and other special rights need protection. The best form of protection, as I have indicated in the case of Europeans and Anglo-Indians, is not communal representation but statutory protection in the form of a declaration of rights.

The next interest to which I desire to refer is that of the Landowners and Landlords. Who are the Landlords and who are the Landowners? Mr. Kim Seing is referring to Landowners while Mr. Cowasjee and Mr. Haji referred to Landlords.

Mr. Cowasjee: No, I referred to both Landowners and Landlords.

U Ba Pe: No, you were referring to your own association, the Landlords Association in Rangoon.

Mr. Cowasjee : We have also interest in lands outside Rangoon.

U Ba Pe : Yes, I know; I am coming to that. The landowners referred to by Mr. Kim Seing are quite different from the Landlords in Rangoon, because the Landlords in Rangoon own town property for the most part, whereas the Landowners referred to by Mr Kim Seing are mainly owners of agricultural land. It would be very interesting to get the latest census figures, but unfortunately the figures for the 1931 census are not available. However, I can give you some figures from the 1921 census which will throw some light on this problem. In 1921, there were 182,835 absentee landlords in Burma. Please note the word "absentee."

Chairman : What do you call an absentee landlord?

U Ba Pe : I will explain that later. There were 182,835 absentee landlords, and there were 3,274,909 cultivating landlords. There were 476,439 "toungya" landlords. There were 1,542,972 tenants.

Chairman : Only that number of tenants? That seems to be a comparatively small number.

U Ba Pe : I will explain it later. Then there were 1,605,883 farm labourers. There were 178,797 growers of products; and others connected with the agriculture operations numbered 1,443,828. Now, My Lord, these figures are very instructive. In Burma we have two classes of landowners or landlords. Landowners of one class own the land. They do not work the land; they lease it out to others while they remain in town. They go there simply for the purpose of collecting the rent. Some of them will not go to the area at all but send the local agent; they collect the rents through the local agent. They are called absentee landlords.

Chairman : Those are the ones who never go?

U Ba Pe : Yes, practically they do not go.

The others, the cultivating landlords, are the landlords who own the land and who cultivate their own land. "Toungya" landlords are also cultivating landlords. "Toungya" cultivation is dry crop cultivation apart from paddy growing which is wet crop cultivation. Then there are growers of products; those are plantations, rubber plantations and so on. The rest are farm labourers and tenants. You will see that if the man with 300 acres is to be classed as a landowner the absentee landlord will get the representation and not the cultivating landlord. It will be mainly the absentee landlord. So if Mr. Hoe Kim Seing's idea is accepted, we are going to create a new interest in Burma for the absentee landlords who are not agriculturists but who are money-lenders. Among the absentee landlords you will find alien landowners who are money-lenders in the main and who are not in any way connected with agriculture except that they own the land and get the rent from the people. These lands in most cases are obtained, not by buying them at the market value, but by the foreclosure of mortgages. So that I am afraid it is highly objectionable.

But do these landlords require protection at all? Cannot they get into the Council? They can; and they are in as a matter of fact. And on the top of that, if you going to provide a special seat for them then you are exaggerating and giving more importance to an

interest which is no interest, as a matter of fact, and which has already been more than amply represented in the Council. So I say there is no case for the landowner.

Now what about the landlords in Rangoon town whom Mr. Cowasjee represents here? I think he does represent the Landlords Association of Rangoon. They own land in Rangoon town no doubt. Out of four seats allotted to the alien community in Rangoon now, Mr. Cowasjee and Mr. Wali Mahomed, a big landowner in Rangoon, were returned. Of the other two Mr. Pillai is not a landlord and I do not know whether Mr. Khan is a landlord. In any case there you have the two big landlords, Khan Bahadur Wali Mahomed and Mr. Cowasjee, both big landlords, who were returned for Rangoon. From outside Rangoon again there is Mr. Rafi for Moulmein, who owns big property in Rangoon which is known as the Hardi estate. Then there is a gentleman named Mr. Ghosh who represents the Indian constituency at Akyab. He, also, is a big landowner. So I do not know what more rights these landlords want by asking for this thing. No wonder their tenants are charging them with greediness.

Now I come to Labour. I am not quite clear what sort of representation Labour is pressing for. I think Sir Oscar de Glanville referred to Labour being represented by nomination.

Sir O de Glanville: I suggested nomination because Labour is not organised and does not obtain representation at present.

U Ba Pe: Burmese labour or Indian labour?

Sir O. de Glanville: Any labour.

U Ba Pe: Well, I will not say any more on that score. Now I come to my friends the Karens.

Chairman: You are not going to address us on Labour?

U Ba Pe: No, because he is talking purely about nomination. I bar out nomination from the discussion so far as I am concerned.

Major Graham Pole: What is your idea about Labour?

Chairman: For the moment you bar it out.

U Ba Pe: No; for the Lower House I do not want it at all.

Major Graham Pole: Do you want Labour to be represented in the Lower House at all, as such?

U Ba Pe: There is no representative directly representing Labour, but there are people who take a prominent part in protecting Labour already. I may say I am one of them. There are several others here.

Dr. Thein Maung: There are five already in the Council.

Major Graham Pole: So you do not ask for special representation for Labour in the Council?

U Ba Pe: No.

Mr. Hall: In the event of nomination being granted, would you then desire certain Labour representatives to be nominated?

U Ba Pe: No, not in the Lower House.

I now come to my friends the Karens. From the figures we have received, the Karens have a population of 1,100,226 in the elective area and 1,367,682 in the whole of Burma. They are the next most

important group to the Burmese proper. The other day I suggested that we should have 200 seats in the Lower House. I had in my mind something for my friends the Karens, and to a certain extent for the Indians. The Karens have at present five seats. There were no seats allotted to them in former times except by nomination, I think, in the whole Council.

Mr. Loo-Nee: No, never. There was a member nominated in the Governor-General's Council to represent the Irrawaddy division, and not the Karens.

U Ba Pe: That is a very good answer, because that is a division where the Karens are, but the Burmese are more than the Karens, and a Karen gentleman has to represent the Burmese interests as well there. That is very good. The idea now is that they want to have proportionately increased seats. I think they want to have seats allotted to them in proportion to the number of seats in the new Legislature. Before I consider the number of seats there are a few observations to make, and I hope my Karen friends will not think I am hostile to them. The other day my friend Sra Shwe Ba definitely stated that they do not admit that the Karens are a backward race. I am really glad to hear that. I have never looked upon them as a backward race. They want representation on the ground that the Karen people are lacking in political experience at present, and that as a race they are shy—I think that was the reason advanced—and they would like to make their representation through their own national representatives and not through anybody else. I have great sympathy with these aspirations, but I am not quite sure whether it is good for them, because in Burma, among the Karens, as among many other races, there are divisions.

The Karens are divided practically into two groups, the Christian Karens and the Buddhist Karens. The latter have not so far expressed the desire for communal representation, whereas the former are very keen on it, but not, as I understand, as a permanent feature in the Constitution, only as a temporary measure. What is the proportion of the Christian Karens to the Buddhist Karens? My impression is that the Christian Karens are fewer in number than the Buddhist Karens. Anyhow, the demand for communal representation by the whole of the Karen community is not unanimous. The Buddhist Karens to all intents and purposes are Burmans. These Karen people speak Burmese as well as the Burmans, and read Burmese literature. They know the Burmans, and there are inter-marriages between the Buddhist Karens and the Burmese people. Someone says that there are very few, but I know a number of such cases. In Rangoon there are two quarters which were mainly Karen quarters in former times, but the original residents there have assimilated themselves into the Burmese group to such an extent that many prominent members of that group resent it if they are called Karens. They want to be called Burmans. One Karen gentleman of that type held a very responsible position, one of trusteeship, in the Burmese Community. The racial feeling is not in evidence. It is the men themselves who are elected, not the representatives of the race to which they belong. Therefore, on the whole, I am satisfied that there is no unanimity among the Karen community in favour of

communal representation, but there is a distinct and very effective protest against communal representation by the refusal of these people to be called Karens and by giving themselves the name of Burmans.

Mr. Loo-Nee : To clarify the point, the position is this. We admit that the assimilating power of the Burmans is very great, but we also declare that once a Karen is Burmanised "there is no more salt in him." This fact is not a figment of the imagination. U Ba Pe has said there are some Karens who are Burmanised, and they become Burmanised so well that they are ashamed to be called Karens; they do not like to be called Karens. On the other hand, there are Karens of our type.

Thurrawaddy U Pu : You are Baptists, I think.

Mr. Loo-Nee : Thurrawaddy U Pu has put forward a point which has its foundation in religion. He wants to divide the Karens on the score of religion. If Karen is Burmanised and becomes a Buddhist he is welcomed by the Burmans, but if a Karen remains a Karen and is a Christian he is not as a rule welcome, and the Burmese people know very little about these people.

(The Committee adjourned at 1-13 p.m. and resumed at 2-30 p.m.)

U Ba Pe : Before we adjourned, My Lord, I was saying that there seems to be no unanimous demand by the whole of the Karen community for communal representation; the Karen community being divided into Christian Karens and the Buddhist Karens.

Mr. Loo-Nee : And Animists.

U Ba Pe : Yes, Animists and Buddhists. So that broadly speaking there will be Christian Karens and non-Christian Karens, the non-Christian Karens being in the majority according to my information. As there is no specific expression in favour of special electorates or special representation in the Council by a section of the community, I do not know whether we can come to a decision with our friends with reference to that community as a whole. In any case the cordial relations between both Christian and non-Christian Karens and the Burmans throughout the province is very good. We have practically nothing to divide us as far as the interests of the country are concerned. The only difference will be a religious difference, as to which we do not quarrel; we tolerate one another. Another difference might be that the Karens will desire to have their own language and so on. As to these things, we agree there must be some protection, but the protection should not be by that method only, because there are other methods open to them. But they would like of course to have their own representation in the Council, even without communal representation. If they can get their own representative in the Council without recourse to this vicious principle of communal representation, I think that should meet their case. That is the reason why, when we were considering the strength in the Lower House we suggested 180 to 200. That means we shall have more constituencies than at present and the size of the constituencies will be smaller. We can carve up constituencies in some districts in Lower Burma, where the Karen population is in a majority, in such a way that those constituencies will practically consist of Karens with a-

little admixture of other races; so that the member returned by that particular constituency will be one selected or elected by the Karens themselves. If they like they can always return Karen candidates from that particular constituency.

I think this method was introduced in South Africa. If you will refer to the Act of Union of South Africa, you will find there a provision somewhat on those lines. They have a Committee appointed from the States forming the Union with a Judge to preside over it to go into the question of the constituencies. They carve out an area which they turn into a new constituency, from which the Boer can be returned. I think we can do a similar thing in Burma without any difficulty, and there will be no opposition to that by other races. That will enable the Karens to return their representative.

As regards the number of the Karen candidates that can be returned, I think they will be more than they actually hope for by that method; because even under present existing conditions where they have their own communal seats, we have cases of Karens being returned by other constituencies where they have to compete with other races.

My friend was referring to the religious difficulty. I am afraid this religious difficulty exists with the other Karens and not with the Burmese people, because Saya San Ban, a well-known Karen Christian in Tharrawaddy, was returned by the Burmese voters—all the Burmese voters. They returned Saya San Ban to the Council on the ground that he was the best man available at that time. They did not look at his religion or any other thing. So that it is not a question of religion only that will enable a man to be returned to the Council; it is something more than that. It must be that he is acceptable to the electors of the constituency by identifying himself with the interests of those people and working for them. Then only can he be returned. So that, according to my suggestion, the Karens will never be sufferers in the long run. There are advantages in this thing.

In the first place, they get their representative from their own countrymen—that is a Karen—and in that constituency there will be non-Karens who will be voting with the Karen electors. The result will be that the Karen candidate returned by such an electorate will have to look not on narrow communal lines to suit the particular section of Karens only, but on a broader basis to suit his electors who are not Karens also. That will teach him to look more broad-mindedly, and that will pave the way for the ultimate disappearance of racial and communal feeling.

I am saying these things because, on principle, communal representation, as I have often said, has had a very bad influence in practice. What is the object of affording protection to the minorities? In the words of Sir Austen Chamberlain:

“ The objects of the minorities clauses in the treaties as enforced by the League of Nations was to seek for the minorities a measure of protection and justice which would gradually prepare them to be merged in the national community to which they belong.”

That was the object and should still be the object in finding ways and means of protecting the interests of the minorities, whatever those interests may be.

Now, My Lord, the dominant demand from the representatives of the minority groups is for one particular form of protection—namely, communal representation. I propose to say a few words on this particular point. In Burma there was no such thing as communal representation in the Council on an electoral basis until the Reforms were introduced into Burma in 1923. Before that, the Legislative Council of the Lieutenant-Governor of Burma had representatives of various races nominated to the Council, not on a communal basis so much as on the ground of special knowledge in a particular line or subject. Since 1923 we have, in the **Burma Legislative Council**, in accordance with the Montagu-Chelmsford scheme, introduced this principle of communal representation, allotting seats to two or three communities—there are four communities altogether—and some special seats to certain special interests. Now, in India, when going through this question, Mr. Montagu and Lord Chelmsford observed this in the joint report which they issued, I think, in 1918:—

“ Division by creeds and classes means the creation of political camps organised against each other, and teaches men to think as partisans and not as citizens, and it is difficult to see how the change from this system to national representation is ever to occur. The British Government is accused of dividing men in order to govern them. But if it unnecessarily divides them at the moment when it professes to start them on the road to governing themselves it will find it difficult to meet the charge of being hypocritical or short-sighted. There is another important point. A minority which is getting special representation owing to its backward state is positively encouraged to settle down to a feeling of satisfied security. It is under no inducement to educate and qualify itself to regain the ground that it has lost to a stronger majority.

“ On the other hand, the latter will be tempted to feel that they have done all they need to do for their weaker fellow-countrymen, and that they are free to use their power for their own purposes. The give and take which is the essence of political life is lacking. There is no inducement for the one side to further or for the other side to exert itself . . . We regard any system of a communal electorate, therefore, as a very serious hindrance to the development of the self-governing principle. The evils of any extension of the system are plain.”

These are weighty words from a very responsible quarter.

In fact, when this question came before the Government of Burma, the Government of Burma, too, was not in favour of communal representation. In paragraph 6 of the report of the Burma Reforms Committee, they stated that “ as regards other communities, in the original scheme provision was made for communal electorates for Indians and Chinese in certain constituencies, but subsequently it was found that public opinion in the Chinese and Indian community was not in favour of such electorates, and the provision was accordingly allowed to lapse. The objections to communal electorates were set out in the Montagu-Chelmsford Report and need not be recapitulated.

The Government believe that the Indian and Chinese communities, by reason of their importance, wealth, and so on, would have no difficulty in securing representation in the Council."

As a matter of fact, the result has justified these statements, but somehow, against the recommendation of the Government and the remarks in the Montagu-Chelmsford Report, the Joint Committee of both Houses of Parliament inserted this provision for communal representation in the Burma Constitution. The step taken was an unfortunate one, because it has now created such a communal feeling in Burma that each community is trying to get more representation on the Council, and other communities not placed on the same footing are now clamouring for communal representation. The Indian community, so far as those permanently settled in the country are concerned, do not want communal representation; the communal representation demanded by the Indian community is not by the permanently settled Indian community but by those who are, so to speak, temporary settlers.

Mr. Cowasjee: That is not correct. When that Commission came to Burma the Indian community gave evidence and asked for separate electorates, and I was one of those who gave evidence.

U Ba Pe: The Government said, also, that the representation of the community in local Government was more uncertain, but it was hoped that it might be secured there also in the same way. Those, My Lord, are the views of the local government. Since then they have changed their opinion, but I will just indicate why that opinion is changed.

Before going into that, may I say that the committee which was appointed in Burma specifically to go into these matters, the Burma Reforms Committee, came also to a similar decision, and **this is what they say:—**

"The Indian and Karen communities are more closely linked with the politics of the Province as a whole."

They go on to say that—

"When the present political ferment subsides the difficulties regarding them will tend to disappear and, it is therefore undesirable to segregate them completely from the general electorate."

I may mention that a prominent member of this Committee was no other than Sir P. Ginwala, a prominent member of the Indian Round Table Conference which met last month and a very respected and important member of the Indian community in Rangoon at that time.

Chairman: Is that the Committee which worked with the Simon Commission when they visited Burma?

U Ba Pe: I am referring to the Burma Reforms Committee, appointed to work out the details of the Constitution to place Burma on the same footing as the other Provinces of the Indian Empire. The Committee presided over by Sir Frederick Whyte.

Tharrawady U Pu: In 1922.

Major Graham Pole: I think it was in 1922 that the Reforms began.

U Ba Pe: It was just before the Reforms. That was the opinion expressed, but that opinion was set aside, and the Joint Committee of both Houses of Parliament here put in communal representation.

Major Graham Pole: You were quoting just now from the Report of the Committee presided over by Sir Frederick Whyte?

U Ba Pe: Yes, and I would also refer to the Nehru Report, the famous Report drawn up by Motilal Nehru and his colleagues.

Chairman: The late Motilal Nehru?

U Ba Pe: The late Motilal Nehru, yes. This is what they say in the Report:—

“ The clumsy and objectionable method of separate electorates and reservation of seats does not give this security ”
that is, security to the minorities concerned. Further on, the Report says:—

“ We cannot have one community domineering over another. We may not be able to prevent this entirely, but the object aimed at is not to give dominion to one over another, but to prevent the harassment and exploitation of one individual or group by another. If the fullest religious liberty is given and cultural autonomy provided for, the communal problem is, in effect, solved, although the people may not realise it.”

Further on they say:—

“ It is one of the tragedies of communal hostility that men shut their eyes to facts and fight against their own best interests.”

It may be said that these are mere expressions of opinion, but they are by people whose opinion we should regard with some respect.

The actual working of this system of communal electorates is doing harm in Burma, as I have already indicated, but that has been the experience not only in Burma but in Ceylon also, and if you refer to the Report of the Commission on the new Constitution for Ceylon, you will find that this is what they say with regard to representation on communal lines for the Upper House. It is on page 39:—

“ In surveying the situation in Ceylon we have come unhesitatingly to the conclusion that communal representation is, as it were, a canker in the body politic, eating deeper and deeper into the vital energies of the people and breeding self-interest, suspicion and animosity, poisoning the new growth of political consciousness and effectively preventing the development of a national or corporate spirit.”

Further on, this same Commission deals specifically with communal representation and on page 99 makes an observation on the actual results of communal representation in Ceylon.

“ Communal representation in Ceylon has no great antiquity.” I may draw your attention, My Lord, to the fact that the words I am quoting from this Report apply practically, with the substitution of “ Burma ” for “ Ceylon,” to the whole of Burma.

“ Communal representation in Ceylon has no great antiquity to commend it, and its introduction into the constitution with good intention has had unfortunate results. As has already been suggested it tends to keep communities apart and to send communal representatives to the Council with the idea of defending particular interests instead of giving their special

contribution to the common weal. We very gladly recognise that most, if not all, of the communal representatives have risen superior to this natural tendency and have shown an interest in matters affecting the general welfare of the Island. We believe, however, that if these same representatives were elected, as we hope they may be, as territorial representatives, they will be able to give a fuller contribution, unhampered by having to be constantly on the watch, fearful of the antagonism or the oppressive action of the other communities.

We might have been encouraged to suggest the retention of some communal representation if there had been evidence of any diminution in the supposed necessity for it. We found however"—

This is very important, My Lord.

"—that not only did those who already had seats desire that the number of these should be increased—"

We have heard the demand for increased representation all round that side of the table, My Lord.

"—but also that a number of other communities, religions, castes and special interests, not at present represented, came before us claiming that it was necessary for them to have seats in the Legislative Council and that they were as much entitled to this privilege as those who already possess it. The result was that, so far from the demand being reduced, increased and new claims were put forward which would have made the number of communal seats more than 50, instead of the 10 already existing. Our investigations show that the desire for communal representation tends to grow rather than to die down, and in these circumstances, it being in itself admittedly undesirable, it would seem well to abolish it altogether while the number of seats involved is still comparatively small."

I am afraid, My Lord, these words are equally applicable in the case of Burma. We have heard of the demand for increased communal seats. Even my friends the Europeans want an increase from 7 per cent. to 10 per cent. And the Indians want 18 per cent. increase; so do the other communities. Then, new interests are brought up now; the landowners and landlords, and so on. So that these words I am quoting from the Report on Ceylon are applicable in the case of Burma and with greater force. As is suggested there, before the evil takes deeper root in the country it is time we stopped this altogether.

With regard to special seats being allocated to communities on communal lines, I have already indicated, My Lord, that through the general electorates they are having their own people, the non-Burmese, elected to the Council. The object of giving protection to the Minorities is not so much to perpetuate the differences and divisions between the various communities but to protect certain interests with a view to getting them on from the communal to the national line, and then merging them into one nation in the future. But the communal system, instead of promoting that line of development, not only hampers but actually acts contrary to that principle. That is the reason why I have suggested that, if you analyse the various interests or supposed interests advanced by the Minorities, they fall into two

groups. The first is, those interests that can very safely be protected by provision in the Constitution in the form of a Declaration of rights; and the other one consists of those interests which feel they can only be protected by having their own men, the men from their own community in the Council. Those can be met by having constituencies made in such a way that we can give them more electors in that particular area to enable them to return their delegate. Now, my Indian friends will say: How are we to do that? In Rangoon town, if there is no communal representation, if there is only one electorate, I am afraid I have no chance against any Indian gentleman.

Chairman: Oh, I think you have.

U Ba Pe: No, because the voters will be about two to one. The Indians are in the majority. They have nothing to be afraid of. I do not think my friends can contradict me on that point. As a Municipal councillor I can assure you that the only place where you have no chance is Kemmendine. In the rest of Rangoon you will have every chance.

Mr. Cowasjee: Would not the Burmans there, as a minor community, suffer?

U Ba Pe: No, we do not look at the man; we do not look at his race or his face or his creed or his religion at all. There are many non-Burmans returned by the Burman electorate.

Mr. Cowasjee: Very few.

U Ba Pe: Take, for example the Indian Legislative Assembly. I will not take the Council of State because there are more non-Burman electors than Burman, so I do not think that is a good case to take; but in the Indian Legislative Assembly, who are the candidates? The man who headed the poll was Mr. Jehangir Munshi and we backed him up; he is our candidate. We spent lots of money in support of his candidature. We did not look at his religion or his race, because we thought at the time that Mr. Jehangir Munshi was the best candidate, so we backed him up as against the Burman candidates. Your Lordship will know that. So I think the fear expressed by Mr. Cowasjee is groundless I do not think I could back up Mr. Cowasjee, because he never looks at the interests of the Burmese people through Burmese eyes, but he looks at them from his own narrow outlook. Of course, if Mr. Cowasjee changes from a purely narrow, landlord outlook to a national outlook we will welcome him and give him our vote. In saying these things I am influenced, rightly or wrongly, by the actual results that I see every day in Burma, as well as by the writings of eminent thinkers on this question in Europe, as well as in India. I am quoting an Indian authority, and I hope my Indian friends will not say that that authority is not worth taking into consideration.

I will quote only or two passages before I sit down. I want my friends representing the so-called Minorities specially to note this, because, after all, we are here trying to build up a constitution not for the Burmese people nor for the Karen people nor for the Indians nor for the Europeans; but for the people of the whole country, the people who have abiding interests in the country, not, of course, for the subjects of the Chinese Republic, nor for the Germans and Americans in Burma, nor for the non-settlers or the temporary

residents. It is meant for those who are permanently resident in the country. I want my friends to note that. You are not to be carried away by the idea that because you happen to represent a particular Community you have done your duty if you try and secure some right to protect that community. Your duty does not end there. I want you all to know that we are not against a statutory provision in the Act to protect the legitimate rights of the minorities and special interests. We are not against that but we are against any system or any provision made in the Act that will nullify the object of the Act which is to place Burma on the footing of responsible self-government on an equal footing with the Dominions.

I want, therefore, to read out one or two quotations in support of what I am saying—

“The essential purpose of the protection of minorities is to secure for them a normal existence within the limits of the State to which they belong.

“This object cannot be obtained by means which are prejudicial to the consolidation of these States, but only by the application within each State of the principle of freedom and equality in the social and legal sphere.

“In providing ways and means for the protection of the minorities it should not create a group of inhabitants who would regard themselves as permanently foreign to the general organisation of the country.”

I want my Indian friends specially to notice that last quotation.

“It should avoid creating a State within a State. It must prevent a minority from transferring itself into a privileged class, instead of becoming infused into the society to which they belong.

“If we take an exaggerated conception, these minorities will become disrupted elements in the State and a source of national disorganisation.”

I think I have sufficiently quoted authorities to show that communal representation both in principle and in practice is bad. But the fact remains that minorities do require some sort of protection, and that protection can best be afforded, not by communal electorates, but by provisions in the Act itself, safeguards in the form of declarations of rights, and, also, by arranging constituencies in such a way that the major minorities like the Karens can always return their own countrymen to the Council to represent their views. I am, therefore, My Lord, on the whole, decidedly against communal representation, and I hope that on mature consideration my friends will come round to my view, and, in framing a new constitution for Burma, will not press for the inclusion of this vicious principle.

Chairman: There is one point I should like to put to you. Your speech, if I may say so, was very clear. But with regard to this representation of the Karens, is it your general idea that the numbers in each constituency should be apportionately equal, generally speaking?

U Ba Pe: No, Sir. In some constituencies the Karens will predominate.

Chairman: Take whatever unit you like to fix, say 60,000 population. We know that populations change, but you start by wanting to get 60,000 or 70,000 inhabitants to each constituency.

U Ba Pe: Yes.

Chairman: That being so, would you require, in order to give these Karens representation, to have rather larger or smaller constituencies for the Karens?

U Ba Pe: I do not think you need worry about that point, My Lord. In the districts where the Karens are principally to be found you can have areas divided more or less on the average equally, and at the same time the Karen population in a particular area will be in the majority.

Chairman: You want to make a special arrangement, then, in the case of the Karens by creating new constituencies?

U Ba Pe: You are going to create new constituencies in any case, and so the case of the Karens can be arranged.

Chairman: Therefore, in the special case of the Karens as opposed to the other minorities, you want so to arrange the constituency to the advantage of the Karens that they may get a particular representation.

U Ba Pe: Yes.

Chairman: Do you think that will carry great confidence or conviction in the other minorities when they see that one of the minorities has had special arrangements made for its benefit, simply because the members of that minority—the Karens—being more gathered together it is easier to give them representation? You are arranging for them communal representation of a certain kind. The point I am asking you is whether you think that will arouse satisfaction in the minds of the other communities?

U Ba Pe: All reasonably-minded people should be satisfied with that, because in the city of Rangoon and in Bassein, Moulmein and Mandalay the Indian communities who are permanently settled in the country can easily get returned—and, in fact, they are getting returned now—not on a communal basis but by general electorates. It should satisfy them because they are getting that actual result even now. The Chinese community, with regard to which I have given figures, are also having their members returned by the general electorates. I do not, however, regard the special arrangements for Europeans and Anglo-Indians as being made on communal grounds at all; I say they are special interests and can come in as special interests, not by these elections but by nomination and so on to the Upper House.

Chairman: You have stated that you want to confine their representation in that way to the Upper House. I am only suggesting to you that, if not exactly in form, at any rate in substance, you are, in fact, giving a special sort of representation to the Karens; you are arranging the constituencies in order to suit them?

U Ba Pe: Quite so.

Chairman: Might not the other communities say “You ought to arrange things to suit us also”?

U Ba Pe: Which are the other communities?

Chairman: The other communities who have given expression to their views today.

U Ba Pe: But on examination you find that there are no other communities, apart from the Karens.

Chairman: That is your statement.

U Ba Pe: I am going on my basis. I do not say my basis should be the final one.

Chairman: I know, but there are misguided people even at this table who declare that they belong to separate communities and that they want to be separately represented.

U Ba Pe: So far they have not proved their existence as a community.

Chairman: You mean you think they not proved their existence as a community.

U Ba Pe: Take the case of the Indians. I have pointed out that they may be divided into non-settlers and settlers. Non-settlers should not have representation. With regard to settlers, if you take away the Burma Muslims, the balance is very small, and you can provide for that. Even in the present Council two or three Burma Muslims have been returned, so that do not want any more. It is the same with the Chinese; they are returned by the general electorate, and they do not want communal representation; in fact, they do not ask for it.

Chairman: One further question. You were discussing the effect of communal representation on the general constitutional position, and you supported your views by some quotations which went to show that communal representation had the effect of isolating the communities rather than enabling them to progress; they were led to say "We are sufficiently represented; we need not take the trouble of educating ourselves," and so on.

U Ba Pe: Quite so.

Chairman: You have no doubt considered this point. You might say that for a fixed number of years—let us say 10 years for the sake of argument—you will, for the sake of satisfying the minorities who may have anxieties in entering into the new Constitution, grant them separate electorates in order to give them confidence. You see, your argument does not apply in that case, because they would have every stimulus to educate themselves or organise themselves, or whatever it may be, because they would know that that particular form of protection would come to an end in 10 years.

U Ba Pe: I have quoted from accounts of what has happened in Ceylon to show that when minorities are given communal seats, even for a temporary period, instead of thinking of the interests of the country as a whole they think of their own community, and at the next stage they want even more communal representation.

Chairman: You could lay it down in the Statute that it was for a limited period only.

U Ba Pe: There is another difficulty there, I am afraid, because I do not want to have a constitution which will be subject to periodical revision. The kind of constitution which we want must contain a provision which will enable it to evolve further without, as in the case

of the Government of India Act, being subject to examination periodically.

Chairman: That was not my proposal. I did not say you were to have an arrangement which was to be revised or reconsidered after a certain length of time. What I said was—I only suggested it—that a particular arrangement was to take place to last for 10 years. Everybody would know it would come to an end in 10 years. They would then be preparing for it and no fresh statute would be wanted, because it would be laid down that the present arrangement would come to an end in that time.

U Ba Pe: I do not quite understand. Is it Your Lordship's idea that there should be a provision that communal representation should be allowed only for 10 years, and at the end of 10 years it goes out automatically?

Chairman: I am saying that is a practical way of dealing with it.

U Ba Pe: Even then on principle I do not agree.

Chairman: You do not like that either?

U Ba Pe: No.

Lord Lothian: May I ask U Ba Pe a question about his proposal for giving representation to the Karens. You mentioned the Constitution of the Union of South Africa. In the Constitution of the Union of South Africa, the provision is, that a Commission should be appointed every five years to redistribute the constituencies in order to make them equal. It is in order to prevent one constituency getting 100,000 voters and the next 10,000 voters. Now supposing you are going to do what you propose with the Karens. Of course, everything depends upon who is going to limit the constituencies, because it opens the way to what is called in American Political parlance "jerrymandering." You see, the body which says "I am going to limit the constituency," is actually going to determine how many Karens and how many Burmans are going to be returned. You therefore get that immediately. Somebody is going to define what sort of proportion of Karens to Burmans are going to be returned.

U Ba Pe: No, that is not the idea. I am not going to distribute a percentage between Karens and Burmans. If the whole country wants to return Burmans, let them do so; let the whole Council be filled with Karens. What I say is, there should be a few constituencies—we should try to make up as many constituencies as reasonable and possible and necessary so that the Karens may be returned from those constituencies.

Chairman: But who does that? That is the essence of it.

U Ba Pe: Of course provision should be made in the Act for that.

Lord Lothian: A certain number of constituencies should be arranged to return Karen representatives.

U Ba Pe: Yes, certainly.

Lord Lothian: That is going to be communal representation from the start.

U Ba Pe: Yes—with this difference. That there are other than Karens in that constituency. Although the Karens predominate,

there will be other nationalities or other minorities, or whatever the phrase is.

Lord Lothian: You would lay it down in the constitution that a certain number of constituencies should have Karen majorities.

U Ba Pe: Well, I have not worked out the percentage and I do not think it will be necessary to do so, because what the Karens want is this; they are 5 now and they are demanding 9, I think.

Mr. Loo-Nee: Sixteen.

U Ba Pe: No, the Government of Burma secret Memorandum said 9. You want 16. Whether they are entitled to 16 or not on a population basis, I cannot say off-hand, but in 5 or 6 districts I am sure they can get at least 8 to 9 returned easily.

Lord Mersey: How many constituencies would be required to be "jerrymandered"—I do not use the word in any unpleasant sense—in order to get the necessary representation—5 or 6?

U Ba Pe: For whom?

Lord Mersey: For the Karens.

U Ba Pe: Of course I have not worked out the detail but I may say a few seats.

Lord Mersey: A few seats?

U Ba Pe: A few constituencies—I will not say seats. A few constituencies should be arranged in such a way as to enable Karens to be returned.

Lord Mersey: It would not really affect this very large increase in the total number of seats that has been alluded to before?

U Ba Pe: No.

Sir O. de Glanville: My Lord, I will only reply to the remarks of *U Ba Pe* with reference to the European case. *U Ba Pe* began his remarks by reading from a book certain conditions for the protection of Minorities in new European States. One of those conditions was representation in the Legislature. But what he has said would deprive the Europeans of all representation in the Lower Chamber, for by no manipulation of constituencies is it conceivable that a European would be returned by means of a common electorate. I do not want to enter into an elaborate or lengthy defence of the European rights or claims, but I would like to shorten the matter by referring to what has been said about the European interests in India in the Report of the Indian Statutory Commission. In Vol. I, para. 66, page 47, the Report states:—

"The true significance of the position of the European in India can only be realised by bearing in mind the course of history and the economic development of the country. It is now more than three hundred years since the first British merchants settled in Surat, north of Bombay, and more than two centuries have passed since British traders established themselves in Bengal. The Indian railway system, designed and carried out by British enterprise, has transformed the conditions of Indian commerce. It is British organisation and leadership which have promoted the modern industrial development of India, just as it has been the adoption of political conceptions derived from Britain which has chiefly affected the recent course of Indian politics,"

and at the end of that paragraph the Report says:—

“ The noteworthy fact is that, over areas so vast and amid populations so immense and diverse, the importance of the small European community, by whatever standard this may be measured, is out of all proportion with its size.”

In dealing with European representation on the Legislature, Volume II of the Indian Statutory Commission's Report, at page 68, says this. These are the considered conclusions of a very eminent body of men who toured through India, took an immense amount of evidence and spared no pains to arrive at an appreciation of the true condition of affairs in India.

U Ba Pe: Not in Burma.

Sir O. de Glanville: Including Burma.

U Ba Pe: There is no recommendation concerning Burma.

Sir O. de Glanville: They visited Burma, and the conclusions which I have read apply equally to Burma as to India, and were, I think, intended so to apply. In para. 81, on page 68, dealing with European representation, the Report states:—

“ As to European representation, this must continue to be secured by means of separate electorates. The numbers of Europeans in India are no fair measure of the contribution they make to the country, or of the influence which they exert. One of the best features of the operation of the Reforms is the way in which European business men of high standing and experience have contributed to the public life of the country by their membership of the legislatures. At present the European representation in the provincial councils arises partly from separate European constituencies, and partly from the choice of Europeans by certain trading organisations.”

Then they go on to recommend, with regard to Bombay and Bengal and so on, the numbers.

U Ba Pe: What about Burma?

Sir O. de Glanville: In Burma they have not dealt with the numbers, but what they say as to the part played by the Europeans in the history of the Indian Councils applies, and I think was intended to apply, equally to Burma.

“ It is clear that it will not be easy in the enlarged councils to find a sufficient number of suitable European business representatives able to devote their time to the work of the legislatures. But we attach great importance to every effort being made, not only to secure the increased number, but to maintain the high standard of representation so far achieved.”

I do not think, My Lord, that I can put it better than that nor can I say more. Nothing that has been said by *U Ba Pe* to-day appears to me, in any way, to weaken the claim that we have made for proper representation in the Legislature, both in the Upper and in the Lower House.

Mr. Campagnac, as Your Lordship already knows is unavoidably absent to-day, and he has asked me to deal, as far as I possibly can, with the Anglo-Indian case if it should arise. I think I can deal with it best by referring to the Report of the Statutory Commission, at para. 83 in Part II:—

" As for Anglo-Indians, we should much prefer to see the choice made by election rather than by nomination, and the general level of literacy prevailing in this community is such that even where its members are few and scattered, the use of the post should make the method of election still possible. In so far as election is the course adopted, it seems inevitable that separate electorates must be formed; the numbers of the community are too small to make any other method feasible.

" As regards the number of Anglo-Indian seats, it should be borne in mind that the object in view is to secure to the community an adequate opportunity of making its views known in the legislature through suitable representatives; no question arises of trying to allocate seats on the basis of such factors as population and political influence."

The Statutory Commissioner, therefore, has recognised the necessity in the case of both the European and the Anglo-Indian communities for separate electorates, and I would suggest that the considered conclusions of the Commission are worthy of very great consideration.

The remarks made in the paragraph I have just read out I might repeat, as they bear to my mind a very great importance, showing how necessary it is by some means or other to secure representation on the Council.

Tharrawaddy U Pu: Do they apply to Burma?

Sir O. de Glanville: They apply to Burma as well as to India.

Tharrawaddy U Pu: Oh, no.

Sir O. de Glanville. I repeat the words of the paragraph—

" . . . it should be borne in mind that the object in view is to secure to the community an adequate opportunity of making its views known in the legislature through suitable representatives."

That applies to Burma no less than to India. If we have no representatives how can we make our views known?

Tharrawaddy U Pu: Sir Oscar de Glanville refers to the Indian Statutory Commission. That Commission reported to the proper authorities that Burma should be separated, and after making that recommendation the Statutory Commission did not refer again to Burma at all. That Commission did not, My Lord, as you know, go into the question of the Burmese Constitution at all. It only made a report to Parliament that Burma should be separated forthwith.

Sir Oscar de Glanville the other day referred to the Prime Minister's declaration of December 1st, which was, in fact, a mere repetition of the declaration of the 19th January, 1931, and that was contested by Mr. Wardlaw-Milne, who contended that we had no right to interpret that declaration, which was made at the Indian Round Table Conference, as applying to Burma. Now, My Lord, he is making a reference to the Statutory Commission, which has got nothing to do with Burma; and, therefore, I want to know by whose authority he states that the remarks made by the Statutory Commission refer to Burma also, apart from India. I want to know his authority and how he comes to maintain that these things apply to Burma.

Sir O. de Glanville: The historical survey in Volume I of the Simon Commission's Report, from which I quoted, was a general survey both

of India and of Burma, and I say that the general principles which are enunciated in Volume II are equally applicable to conditions in Burma. The conditions do not alter by going a few yards or a few miles further.

Dr. Thein Maung: My Lord, I agree generally with the remarks made by U Ba Pe, and I support all the view expressed by him, but there are certain points which have been left out and which Sir Oscar de Glanville has now raised. Sir Oscar, My Lord, seems to be anxious lest the Europeans should get no representation in the Lower House if there is no communal representation. Well, U Ba Pe has already stated that there would be about 200 members in the Lower House, and that for the purpose of returning those members, Burma would be divided on a territorial basis, so that there would be one member for every 20,000 voters or thereabouts. Applying that principle, My Lord, Rangoon now has a population of about 400,000, so that Rangoon alone will return about 20 members to the Lower House; that is to say, Rangoon will be divided into 20 wards, each of which will return a member to the Lower House.

Now, my Lord, the Europeans are grouped for the most part in one locality, popularly known as the Gymkhana, and so from that ward they could easily return one of their number. There are, moreover, important European interests, such as the Burma Oil Company, Steel Brothers, Bulloch Brothers, and others grouped together in another locality. The people living there are all their employees, so that from that area also a European could easily be returned. If Europeans will identify themselves with us and regard themselves as Burmans and take an interest in our affairs, they will easily be returned.

Mr. Howison: May I ask a question, Sir? Dr. Thein Maung, I think, said that they were aiming at 200 seats, and that that would mean 20,000 population per seat. But the total population is somewhere in the region of 12 millions. Do I misunderstand you?

Dr. Thein Maung: The population of Rangoon is about 400,000 now.

Mr. Howison: You told us it was on a basis of 200 seats in the Legislature which I think you said represented an average population of 20,000 per seat.

Dr. Thein Maung: Yes.

Mr. Howison: Surely that is a miscalculation.

Chairman: It is much more than 20,000, is it not?

Major Graham Pole: It is the difference between the population and the electorate. We are talking about population now. I do not think the suggestion was 20,000 population.

Dr. Thein Maung: No, electors.

Major Graham Pole: Yes, that is what I thought the idea was.

Mr. Howison: If it was 20,000 voters, of course the calculation with regard to Rangoon would be quite wrong.

Chairman: It all depends what the franchise is, does it not?

Dr. Thein Maung: We are proposing adult franchise and generally every Rangoonite will have a vote.

Sir O. de Glanville: Surely, My Lord, that 400,000 includes children.

Dr. Thein Maung: Even taking half of that. You see Rangoon at present has 8 seats out of 103. When there are 200 seats Rangoon will get 16 seats as a minimum. Even now when there are only 103 seats in the Lower House, Rangoon has got 8 seats: 4 Burmese, 4 Indians and 1 Anglo-Indian.

Sir O. de Glanville: No.

Dr. Thein Maung: From the whole of Burma.

Sir O. de Glanville: Yes.

Dr. Thein Maung: Taking that there are 8 now, there will be 16 in the future House; so that Rangoon can be easily divided into 16 wards or constituencies, and from one of them a European could easily be returned, especially from the Gymkhana side. There is one quarter known as the Gymkhana; it is in the Cantonment. There the population is composed all of Europeans with one or two Burmans who are high officials. So that from that ward they could easily be returned.

Sir O. de Glanville: May I ask, My Lord, if anybody lives in the Gymkhana?

Dr. Thein Maung: Yes, many: in Prome Road, Halpin Road, Newlyn Road, Fytche Street, etc.

Tharrawaddy U Pu: You mean the Cantonment area.

Dr. Thein Maung: I mean the Cantonment area.

Sir O. de Glanville: There are no residents there, except the Indian servants.

Dr. Thein Maung: I am talking of the area served by the Gymkhana station, the European area.

Sir O. de Glanville: There is no such area.

Dr. Thein Maung: There are people staying there.

U Ba Pe: The Burmans call it the Gymkhana area but my friends will call it the Cantonment area.

Dr. Thein Maung: The residents in that area are almost all Europeans. There are a few Burmans there—about two or three; they are High Court Judges or high officials. So that from that place a European could easily be returned. Now, My Lord, coming to the question of nomination which has been proposed by some of the Delegates, mention has been made of the Labour interest. The Labour interest, as it is now, is fully represented in the Burma Council. I know at least five members, of which I am one, who take a special interest in Labour. Among the Indians there is one member, Mr. E. P. Pillai, who calls himself a Labour Member. He was returned from the Rangoon West constituency by the votes of Labour, and he always goes against Mr. Cowasjee, who represents the Capitalists' interests. If anyone studies the division list of the Burma Council it will be found that in all the divisions Mr. Pillai and Mr. Cowasjee always vote against each other, so the Labour interest is already represented. However, the Government nominated one gentleman, Mr. Venkataswami, to represent Labour. He has been three years in the Council, but so far he has not uttered a single word in support of Labour; in fact he has

never raised any question nor spoken in the Council. What he has done so far has been simply to come to the Council and vote in support of the Government. How far that has helped the interests of Labour is unknown, at least to us.

Mr. Cowasjee: Is that the nominated member?

Dr. Thein Maung: Yes, the nominated member. So nomination is a failure. I will give another instance. Last year, in May, there was some trouble among the Burmese labourers and the Indian labourers. At that time we held meetings just to bring about peace. U Ba Pe, U Maung Gyee, Mr. Ohn Ghine and myself were there. There were certain Indian leaders too. Mr. Venkataswami could not be found at that meeting. I then mentioned that as Mr. Venkataswami had been nominated to the Council by the Government to safeguard Labour interests, we thought we should try and get him. He was telephoned for, but could not be found. Such has been the interest that a nominated member has taken in Labour. So it would be simply a farce to nominate a member for the sake of Labour. Our voters are generally labourers, and these voters will take special care only to vote for a man who will take a special interest in them. They are not fools. It has been said that Labour in Burma is not organised. I am afraid the speaker is out of touch with the real state of affairs in Burma. There are Labour organisations in Burma, and my friend, the Government Adviser, Mr. Lister, will bear me out that there is a Labour Union in Yenangyaung. The Labour Union gave so much trouble to the Government in 1922-23 that three of those leaders had to be deported from Yenangyaung. And since last year there have been Labour Unions formed in almost every town, and if anyone cares to read the "Burma Gazette," an official publication, of August and September this year, he will find that the Labour Commissioner has there admitted the formation of Labour Unions and that these Labour Unions have been doing good work.

My Lord, to illustrate how far the labourers can organise I will give two instances. Last year U Ba Pe and Mr. Ohn Ghine were asked to attend the Round Table Conference. I was also sent with the party just to help them. When we came out, the labourers made a demonstration and gave us a hearty send-off, and on returning from here we had a similar reception. Again, this year as we were coming away we had a similar send-off, and whereas the other Delegates had to go to their boat supplied by the Company, we came here by a special boat supplied by the labourers, with entertainment and everything provided. This shows that the labourers can organise well, and that is what they have been doing.

Therefore I am not in favour of nomination on any account. The Burma Government is of opinion that it might be required to nominate a Burmese woman. I do not think so, and I do not think that Burmese women will appreciate the necessity. The People's Party have chosen candidates for the next election, and in that list there are two women candidates who are going to stand, and I think they will be duly returned. The Burmese woman, therefore, needs no special protection from the Government.

Incidentally, My Lord, I may reply to the enquiry made by Major Graham Pole the other day whether the money-lenders have done any good to the Burmese people. I may say at the outset, that so far as the labourers are concerned, there has been more harm done than good;

that is to say, in Burma now, once a man takes money from a money-lender, he is lost. The interest is so high, and is compounded from year to year that after four or five years the initial debt becomes doubled. During last June I had occasion to make a special enquiry in my own constituency into this matter. The people there were in great trouble, being harassed by their money-lenders to pay in the money.

I have found that those who take Rs. 100 this year find that it comes to about Rs. 200 in the third or fourth year, with the result that they are now actually serving the money-lenders by their labour. Twenty-five years ago the Chettiar firms in my town had a capital of Rs. 50,000; today these firms are worth nearly 50 lakhs, *i.e.*, one hundred times as much. They did not bring their money from India; that money represents the accumulated interest they have taken in that area. It comes to this; the Burmese labourers take money from the money-lenders to work their fields, and the results of their work is that they have to give such high interest to the Indian money-lenders, that they now have become the agricultural labourers of the money-lenders. I have got here photographs to show how poor they have become. I do not think, therefore, that the money-lenders have been of any real benefit to the people.

Much has been said, My Lord, on the subject of communal representation, and I desire in conclusion to ask Mr. Haji to practice what he preaches. This morning he said "Let us not create discord where there is amity." So far the Burmans and the Indians have been working in a friendly spirit, and if the Indians will trust us, as we trust them, well, love begets love; trust begets trust. But, if they suspect us, then of course it is equally true that suspicion will beget suspicion. I should therefore like to ask Mr. Haji to trust us and to work with us in amity, as he desires to do.

For the last 48 years or so we have simply been governed by foreigners. We are serfs in our own country. My Lord, on the opening day Sir Oscar de Glanville said that the Britishers want to be in Burma what the Burmans are in Britain. I want to be in Burma what I am here in Britain. I am more free here than I am in Burma. That is what I want. We are asking for that, and now, because we are just about to get it, the Indians are showing suspicion and they want to be protected and to be safeguarded. They have been doing very well so far, and I do not see how they can be worse off when the power comes into our hands. Burmans by nature are generous. We cannot be less generous because we have got some power. We would be the same. We are now asking only for some power so that we can be in Burma what the British are in Britain and what the Indians want to be in India. In India they say the Europeans are exploiters, that the Europeans are taking the riches from India. I am afraid Indians are doing the same in Burma too. Yesterday it was said that the wealth is not taken from Burma, but my friend forgets that all wealth taken from Burma, in the form of rice, or in the form of timber or minerals, is a loss to Burma.

Tharrawaddy U Pu: Only by the aliens?

Dr. Thein Maung: Well, by both, it is the same. But I want the Indians to give us the same right in Burma as they want to get in

India. I want the Indians to trust us and to work in amity with us so that we can work on in right earnest.

My Lord, one point about the landowners. I am afraid I do not agree to the creation of a special interest called the landowners and the landlords. Even now we are getting too many of them. This morning Sir Oscar read out a statement submitted by the Government of Burma, and therein it has been mentioned that there are three landholders in the Burma Council. I am afraid, Sir, it is not quite correct. I know that there are more landowners than are mentioned in the statement. For instance, some of the lawyers mentioned there are also landowners. I have not been included in that list too. I am, myself, a landowner. The mill-owners are generally landowners as well; so the landowning interest is fully represented in that Council, and the standard fixed at 300 acres is also very high. In Burma, the Government does not encourage the Zamindari system, and very few Burmans can own big estates; because the Burmese Buddhist law is such that, when a parent dies the property is equally divided among the children. Thus even if a parent owns about 1,000 acres, on his death each heir owns less than 1,000 acres. Thus there are very few Burmans who own about 300 acres. It would only amount to this, that there would be a new foreign interest called landowners and they would try to suppress the labourers as they have been doing elsewhere. Therefore, My Lord, I cannot agree to the creation of a new special interest such as the landlords.

Mr. Isaac Foot: I should like to express, first of all, my congratulations to U Ba Pe for the very full statement that he has made, and, if I may say so with all respect, for the very able case he has made against the communal electorate, fortified, as it has been manifestly, by wide study of the subject not merely in Burma, but throughout the world where this question has arisen; and also, as far as Dr. Thein Maung is concerned, I hope that, seeing that he had so excellent a send-off, he will have no less an excellent reception upon his return, and I think that I may speak for the British Delegates in saying that it is the desire that, by anything we can accomplish here, it may be possible for the Burmese people to have a very much fuller share in managing their own affairs. The complaint that he has made, that there is less freedom in his own country than there is here, is a very searching complaint and we want, as far as we can, to remove every legitimate grievance.

I think I should go fully with U Ba Pe if we were for the first time coming to consider a constitution for Burma. If we were coming to write upon a clean sheet, I think that most people would agree that communal representation in itself is a disadvantage; but, of course, we are not writing upon a clean sheet, we are writing upon a page where a great deal of other writing has been put down. The question of communal representation is one which has occupied the minds of some of the ablest men in the East and in the West ever since the Morley-Minto Reforms, and nothing is more revealing than what Lord Morley had to say in his *Reminiscences* upon the trouble that he had in his own mind before he was driven to the conclusion that, in spite of all its disadvantages, the communal system was for the present necessary in Indian affairs. Lord Morley saw the arguments, I think, just as clearly as U Ba Pe, and I was quite certain that the Ceylon Constitution would be quoted; I waited for U Ba Pe to quote it, and

then saw the familiar volume being produced. Of course, those arguments are summed up in that very forceful paragraph contained in the Ceylon Constitution. Obviously, the best system for Burma, or for any other country, is that the differences should be forgotten, and the best way of helping the forgetting of difficulties is that men of all classes and creeds, and men of every side in national life should be brought together in their common electorate. There would be no difference between us upon that. But we are face to face with a situation that has grown up during recent years, and we have to deal with the facts as they are. When we met as a sub-Committee at the Indian Round Table Conference to deal with Burma twelve months ago, under the chairmanship of the late Lord Russell, the second paragraph of our Report made it clear what our liability was upon this matter:—

“ The sub-Committee are of opinion that the legitimate interests of Indian and other minorities must be safeguarded. They are not in a position to advise as to the particular form of protection these interests require.”

But fuller conference has put upon us the responsibility of examining these safeguards and seeing that they were secured.

Tharrawaddy U Pu: Are they binding upon us?

Mr. Isaac Foot: In no sense binding; but I say that that matter was then considered, and at that sub-Committee different interests were represented. I am only calling attention to the point that that was then dwelt upon.

Even if that sub-Committee had not met—I am referring to Tharrawaddy U Pu's interruption—it is obvious that if we are to look at the Burma Constitution, we must take into consideration the minority interests. Well, if there are to be safeguards for the minorities, I find some difficulty in seeing how those safeguards can be secured apart from representation in the legislature. I do not think that the constituencies could be reformed on the lines indicated by U Ba Pe. and even if they were so reformed, we should probably have the obligation of reforming them again from time to time as circumstances dictated, and as the census figures made it necessary. I think nomination is open to objection, and when we served upon the Minorities Committee in the Indian Round Table Conference it was, I think, generally concluded there, that the interests of the minorities could not be safeguarded by nomination, but must be safeguarded by separate electorates. I quite agree that the minority problem is not the same in Burma as it is in India. In India, it is much more intractable. But to that extent, I think, the objection to nomination stands.

Now, My Lord, the distribution of the population in Burma seems to be such that there is no acceptable representation of communities or no guarantee of such representation of communities by reservation of seats. I understand that there is no present constituency where the Karens have a majority. If here at this Round Table Conference, the representatives of the minority interests, including the Karens who, I understand, have five seats to-day, and the Indians, who have eight seats in addition to the one for the Indian Chamber of Commerce, and the Europeans with one seat and two seats for the Chamber of Commerce and one for the Rangoon Trades Association, and the Anglo-Indians who have one seat—if these several minority interests were in a position to accept the invitation of U Ba Pe and to say, “ We will let

this constitution rest entirely on mutual trust and confidence," then there would be very little left for us British Delegates to do. But if they press their claims, as I understand they have done in every instance, and ask for a larger representation, it will be very difficult for any one taking part in this Conference to say that that request for separate representation should not be met.

In a question I asked this morning, I drew attention to what is, I think, a very important point. If these minority interests are not represented in the Lower Chamber itself the Governor would be charged with a very serious responsibility in ascertaining their views upon every question that would arise. Anything that touched the interest of any one of the minorities—and it would be almost impossible to think of any capital law or any big change that did not affect in one way or the other one of the minority interests, or perhaps all of them—would have to be considered by the Governor, and the Governor would have to satisfy himself upon that matter. It would be necessary for him to consult the minority interests concerned, and what better way could he have of informing himself of the opinion of the minority interests than by taking what is said in open council where these statements could be answered? I put that point to U Ba Pe. Here is a Governor with that responsibility, the responsibility of ascertaining the mind of the minority. He will have to meet the representatives of minority interests, and, if there is not minority representation, he will have to meet them, not in open court, but by some other method. Is it not far better that the minority interests should present their claim where it can met in open council, and where the larger interests can thrash out—as debate is intended to thrash out—the claim and the counter-claim, before it goes to the Second Chamber and before it receives the consent of the Governor?

It is better to argue it on the floor of the Chamber than in the private rooms of the Governor, where, it may be, the larger interests have no voice and cannot put their side of the case. It seems to me that if in forming the new Constitution, we refuse to the minority interests this right of separate representation and if they are deprived—because I understand the objection applies even to nomination—of their direct representation in the Lower Chamber, the Governor may sometimes have to protect those minority interests if a law is passed which affects those interests adversely. That at once would bring the Governor and the Lower Chamber into conflict, and I think it is of the utmost importance that there should be the least occasion for conflict and division between the Governor and the legislative authority.

Accepting all that has been said on the general principles, I think, taking the facts as they are, we are almost driven to accept the same position as the Statutory Commission indicated, and as the Government of India indicated in their Despatch and to allow the claim that has been put before the Round Table Conference.

I should like to say further, My Lord, that I should be very much more inclined to support U Ba Pe in this matter if I thought that we were establishing a communal electorate as an integral and continuing part of Burmese life. If, for ever, Burma had to put up with this undemocratic system, I think there would be more point in his arguments; but I would draw attention My Lord, if I may, to what was said by the Statutory Commission on this matter, Volume II, page 81. If I may, I will read the words, as they have a bearing on this point.

They were discussing generally the question of India, including Burma, at that time, and what they say is this:—

“ Most of the matters with which we have been dealing—communal representation, whether by separate electorates or by reservation of seats, the method of election, and the like—will, as we conceive, be dealt with in electoral rules. The time may come when a change of attitude may arise, indicating an increased degree of confidence between citizens of different communities, and the question of amending the electoral rules will then be ripe for consideration. Such amendment could not be brought about by the will of the majority, so long as the protected minority remains strongly adverse. On the other hand, existing arrangements ought not to be maintained at the dictation of a mere handful, when it is established that in the minority community as a whole the prevailing opinion is in favour of abandoning special protection.

We propose therefore that after a lapse of ten years it should be within the power of a provincial legislature to carry a “ Constitutional Resolution ” providing for either (a) changes in the number, distribution or boundaries of constituencies, or in the number of members returned by them, (b) changes in the franchise or in the method of election, or (c) changes in the method of representation of particular communities.”

They go on to deal with that more fully.

I should think that the trust for which one of the speakers has asked, and without which no constitution, however delicately framed, is likely to work, ought to grow up during the early years of constitutional representative government in Burma and one would hope that, after that experience, there would be an increasing desire to bring the several communities together; but the experience of Europe during the last ten or fifteen years has been that unless you can reconcile the minorities and carry them with you, you bring in seeds of friction and discord from the very beginning. However strong may be the theoretical arguments—and I think they are very strong—a very more important consideration is that, by concession, there should be gained the goodwill of the Minority interests, so that they may make a very powerful contribution to the working out of the reforms which we hope to set up as a result of our sittings here

U Ba Pe: I have some questions to put to Mr. Foot to clear up the position. Before doing so, I should like to explain to Mr. Foot the actual position in Burma. The knowledge of that position will alone enable him to answer the questions I am putting. At present, under existing arrangements, we have two kinds of constituencies. One is the communal and special constituency; the other is the general constituency. Under the existing rules of the Burma Legislative Council, those who are for a communal seat can only stand in the communal seat; those who are in the general electorate cannot stand for the communal seat. But in the general electorate, where there is no special constituency for the community, all other communities can take part. There is no Burmese constituency; you must remember that. Now, by allowing those communities which are given communal seats to participate in areas where there is no communal seat, where there are only general electorates, you are giving an advantage to the Minorities over the majority in that particular area. While the majority have no

right to go and stand in the Minority communal constituency, they have to allow the Minorities to stand in competition with them in the general electorate constituency. I think I have made it clear. So that you are giving a special advantage to the Minorities over the majority. Now do you consider this fair to the majority? Again, if you do not allow the members of the Minority in the general constituency where there is no special constituency for the communities to vote or stand for election with others you will be keeping them from voting because they have a special constituency for their community elsewhere. In that case, you will be depriving them of their right to exercise the privileges of Burman citizenship. That is one point.

There is another point. If you allow a communal seat to some of these minorities, is it fair that you should deprive other minorities in Burma of that right; and if you are to give it to other minorities as well, where will it end? The number of seats for the Minorities will be more than that for the majority. The country will be run by the Minorities against the interests of the majority. Do you approve of that position? That is my second point.

The third question is this. You say we have this minorities communal representation at present; therefore it is not advisable to disturb it; we have not a clean slate on which to write, so that we have to continue somehow. Am I to understand that, knowing that this system, in practice, is doing lots of harm and defeating the object for which we are trying to build up the constitution, yet you are prepared to continue this system?

Mr. Isaac Foot: Of course I am quite willing to hear what all the special circumstances are, and it is very likely that any Englishman is largely unacquainted with some of the facts that are so apparent to U Ba Pe and his friends. But I am surprised to learn that there may be the possibility that the minority interests can have a stronger position in the Assembly or in any legislative system there than the others. To that I should be strongly opposed—overwhelmingly opposed. Of course, the majority interest must rule, and all I am asking for the minority interests is that they should have the power of presenting their case; I think in the end it would be better. But, as I understood the matter, out of the 80 elected representatives there were 18 of these minority interest members. As far as the claims are concerned of course we will consider the adjustment of the claims later on. It is obvious that when the number of your members in your Lower Chamber is decided, you must secure to the majority an undoubted power which the majority is entitled to possess. That is my point, as to the danger of the minority interests eating away, or at least taking so much of the share of government that there would not be enough left for the majority. They must be safeguarded undoubtedly. As to the other difficulties, I think they are apparent, and the anomalies are apparent, but I think that if you, by wiping out these anomalies, set up a number of aggrieved interests in Burma you would be acting contrary to its interests at the beginning. That is my submission.

U Ba Pe: In that case your idea is this. You want to give the right to the minorities to have representatives there to present their viewpoint?

Mr. Isaac Foot: That is what I want.

U Ba Pe: In that case what you want is representation?

Mr. Isaac Foot: Yes, with power commensurate to their importance.

U Ba Pe: But would you agree not to increase the number of seats, because the more you increase the number of seats for the minorities the more you reduce the number of seats for the majority?

Mr. Isaac Foot: That must be safeguarded, I agree.

U Ba Pe: But would you agree not to increase the number of seats for them as long as they had representation there?

Mr. Isaac Foot: You must not press me on that point. What I say is that once you have determined upon your minorities you must see that the majority must possess sufficient numbers to carry on the Government, as in any other democratic country.

U Maung Gye: On this side of the table we are all agreed that minority interests should be safeguarded, but there are two ways of doing that. One way of doing it is by providing in the Constitution itself certain safeguards. Another way is by providing communal seats in the Legislature. I know that the Simon Commission has adopted the second alternative, but we have proposed the first—that is to say, we have proposed that the rights of the minorities should be protected by providing safeguards in the Constitution itself. The Simon Commission turned down the idea of protecting the interests of minorities by Statute on grounds which seemed to be peculiar to India. If you will refer to the Report of the Indian Statutory Commission, Vol. II, pages 129 and 130, you will find that the question of providing safeguards for minorities by Statute was considered by the Simon Commission, but the Simon Commission considered that the Indian people were very litigious, and any alleged encroachment on the constitutional rights of the minorities might be dragged into the law courts, and therefore there would be endless troubles, endless squabbles in the law courts. That was the main ground on which the Simon Commission rejected the idea of safeguarding the interests of minorities by Statute. So I should like the representatives of the minority groups to consider whether, taking into consideration the circumstances as we find them in Burma, it would not be more profitable for them to have their rights safeguarded by Statute.

U Ni: My Lord, appeals have been made to Lord Morley, the Ceylon Constitution, the Government of India Despatch and many other authorities, and when they are applied to the particular point at issue we benefit very much; but just at the present moment I would appeal to this Conference to consider the issues with an open mind after consulting other authorities that may, possibly, be able to guide us.

We have been told that it is necessary to safeguard the interests of the minorities, and that the only effective way to do it is to let them have certain seats in the Lower House. I think that view is shared by a good many of the British Delegates as well as some of the other Delegates in this Conference. If that be the view, I hope it will not be taken that my friends and I have any desire not to safeguard the interests of the minorities. We are exercising our minds to the utmost to do that, but if it is only a question of giving them an opportunity of putting their grievances forward in a proper manner, I do not think that is the proper way to do it. I should like to give my reasons. When my friend *U Ba Pe* rose after *Mr. Isaac Foot* had spoken, it occurred to me that there is a danger if we allow the minority communities to have seats in the Lower House, not only for the purpose of voicing their

grievances or of thrashing out certain points which they find to be necessary, but also of voting, the danger being that in this way an irresponsible minority may be able to defeat a real majority. It might happen that certain elements among these minority communities, given the power to vote in the Legislature, would combine with a negligible irresponsible minority, and give to that minority for the moment a majority vote. In that case you would be hindering what we have tried to do, you would be killing the real majority, and in cases of real emergency or in very important matters, the result might be very undesirable. That is another point which we have, very carefully, to bear in mind.

Now, we have had some claims made by the minorities. I am not quite sure of the total percentages.

Major Graham Pole: 49 per cent., so far.

U Ni: Your Lordship will see that the representation claimed by the various minorities amounts in the aggregate to 49 per cent., and by inducing a portion of the discontented or dissatisfied section of the majority to come in with them, they could defeat the aims of the majority. I am sure that is something which Your Lordship and the British Delegation generally, would never wish to render possible. You may try other ways to protect the minorities, but I am sure you will do your best to avoid anything of that kind.

Chairman: I think it would be useful. U Ni, if you argued the case on the basis of what I would call a reasonable representation for the minorities, not necessarily on the largest requests that may be made. I think we should all agree that, as has been stated already, the majority must of course rule, but we are really dealing, not so much with the exact numbers, as with the question as to whether a reasonable representation—it must be small, of course—should be accorded to them.

U Ni: I had to mention these points, but on that question, My Lord, I should like to say that, in giving my account of the Upper House. I mentioned that electoral colleges or some other method might be employed so as to enable certain interests to lay their grievances before the House. I suggested four methods for appointing members to the Upper House, and for my last quarter I gave ample opportunity for full representation to be given to these special interests. There is one point which ought to be borne in mind in considering this matter. The subject which we are now discussing may be called the communal question.

Chairman: We have called it the representation of minorities, and that is a wider term, I think.

U Ni: Yes, the representation of minorities and special interests by communal representation. That means that the constituencies which are reserved for particular communities are not open to other candidates. In a Karen constituency, for instance, which would be specially reserved for Karens, and in an Indian constituency which would be specially reserved for Indians, no Burman, no Englishman, and no Chinaman could stand. If, however, we adopt the plan we have suggested for representation in the Lower House on a territorial basis, we find that if the constituencies are distributed in the manner suggested then, even without giving special preference to the Karens, as perhaps my friend U Ba Pe wanted to do, the Karens will be very fully returned, and I think the Burma Muslims, also, will secure

proper representation if the constituencies are allocated in the way suggested, so that both the Karens and the Burma Muslims will be returned. In giving seats in the Lower House, there is one thing which I would ask this Conference to bear in mind: whether we would like aliens, or non-domiciled people, to be represented in the Lower House or in any House; whether those who are not domiciled or who have not acquired any citizenship of the country will be allowed to vote and interfere in the legislation of the country.

Mr. Harper: I heard the word "aliens" just now. Does U Ni include British among those?

U Ni: No. I want to be clear on this point. I am asking whether those who have not acquired the citizenship of the country will be allowed to interfere in the legislature of that country.

Chairman: But only those who have votes will be able to interfere.

U Ni: I should think so, My Lord.

Chairman: Well, clearly.

U Ni: Only those who are citizens ought to be allowed to meddle in the legislative work of the country.

Chairman: May I ask you a question? We are apparently all agreed that there should be some protection for Minorities. The difference is, and I agree it is rather a big difference, as to how that protection should be afforded. On the one side there are requests put forward by the Minorities. I will not say for a moment which they are; I will call them the Minorities. They have put forward requests that they should have a certain measure of representation in the Lower House secured to them. On the other hand, the point put by U Ba Pe has been that, for various reasons which he has explained, he is not in favour of that; but he does think that they should be secured by some general declaration of rights placed in a statute itself. He therefore admits I think, that some sort of safeguard is required.

U Ba Pe: Yes.

Chairman: I think it then becomes a question of how that can best be secured. Perhaps I may say two things. I am not pronouncing an opinion; I only want to get views more definitely stated. I do not think these general statements in constitutions have been shown to be of any great value, unless there is some method of carrying them out or giving effect to them. Now it has been stated that if, for instance, in the Governor's Instructions there was included some definite instruction that he should look after Minorities, the duty would be cast upon him. I think Mr. Foot has pointed out very forcibly that that would throw a difficult burden upon the Governor, that he would have to make an enquiry about these Minorities; and that by far the best judgment that he could form upon them would be drawn from statements made by representatives of the Minorities themselves in the Lower House. I think U Ba Pe has said that he was not unwilling that there should be nominated representatives in the Upper Chamber. I think, as far as we have gone in constitution-making—I do not say we have gone very far—the tendency has been that the Upper House should be rather weaker in power than the Lower. If that is so it is not rather illogical to say that these Minorities should have the power of stating their case by their nominated representatives in the Upper House, but in the Lower

House, the more powerful House, where they should have far more opportunity of stating their case, they should be debarred from doing so? I should think, if they were to have it at all, it would be much better that they should have the power of stating their case in the Lower House rather than in the Upper House, and that if certain arrangements were made therefor, that they should have certain representation which would be effective. Of course, I think we are all agreed, and nobody would suggest otherwise, that a lot of small minorities should not be able to outvote majorities, or indeed should have such a large representation that they could sway the whole Assembly. I do not think anybody is thinking or suggesting that. I am only saying, not so much in the interests of the minorities as of the majority, is it not better, if there is really a strong feeling, that the majority, which is not only bound to rule but can rule, should meet, generously if you like, over-generously if you like, the requests of the minorities that are put up to them in the general interests of Government? After all, when you have great changes in government and constitution, men's minds are rather anxious and nervous; that is always so; they do not know what is going to happen, and if they can be thoroughly reconciled to the new system, the new constitution, by concessions, on the part of the majority, I think you have gained a great deal. I merely offer that point for consideration, but I would like rather to know why, if they are to have representation in the Upper House, they should not have some representation in the House which is really more capable of listening to, and dealing with, their grievances.

U Ni: I will put my method of securing the minority rights first in short, so that Your Lordship may see what I have in mind for this purpose. As for those who have not any citizenship or who are not domiciled, I consider that they have their own government, and they cannot be more powerful than their own government. I understand from what was said now, that there will be only a few minority representatives there to express their views, but they must not have any fighting weight.

Chairman: They would not "run the show," if I may use a common expression.

U Ni: As for those who are not domiciled or who have not acquired citizenship, as in other countries, in this country and everywhere else, they should be excluded, but they could represent their case through their Governments' representative, who will be there, either by the High Commissioner, or in any other way. We are not considering them. It is much better to clear up that position first. As for those who belong to a real minority community, like the Karens, as in this country they will secure representation in the Upper House. In the Upper House in this country I find that there are sixteen Peers from Scotland.

Major Graham Pole: They are not aliens or foreigners; they are rulers.

U Ni: Of course, we want to exclude aliens from the Legislature; but as for those who are our own family brethren, the position will be just like Scotland and Wales in this country. Even Ireland, I think, had 25 Peers prior to the passing of the Act, and as has been done here, we shall be quite willing to give them special representation in the Upper House, but in the Lower House they must be prepared to make

a name in the eyes of the public. If only they will identify their interests with those of the public they will be sure of getting returned; they will get votes all right.

My friend Mr. Sydney Loo-Nee stated that it would not be so regarded by the ordinary electorate. I am quite sure that it is for the good of the public, and that the public would regard with respect any candidate who had real claims for public sympathy and support. Special representation for minorities will be given in the Upper House no doubt, and I have already delineated in my scheme for the Upper House what such representation might be. But as to the Lower House, surely the matter may be stated like this: Simply because we borrow money from a money-lender, ought that money-lender to claim representation in the Council of the State? If I obtained some article—say paint—from a manufacturing house on credit, ought I allow that house to come and interfere in my own painting work? The same thing applies to national money-lenders. If the French lend money to America or England, ought they to be allowed to interfere in the affairs of those countries?

Chairman: Nobody would suggest anything so absurd. Nobody is suggesting that because you borrow some money, therefore the lender should be entitled to representation. What we are considering is the question of votes for those who are settled and domiciled in the country.

Mr. Wardlaw-Milne: U Ni has mentioned the word "citizen." What, in his view, are the qualifications of a citizen?

U Ni: It is very difficult to keep this question in water-tight compartments, and I think that under the heading of "Franchise" we could best discuss that point.

Mr. Wardlaw-Milne: It is rather difficult to follow what is said if the speaker does not tell us what he means by "citizen."

U Ni: I can give a general idea. I consider a citizen is a person who has the intention to settle down in a certain place, the same, for example, as in Roman law I may mention as an illustration, the carrier pigeon, so long as it is in the habit of returning to its home, may be regarded as a "citizen."

Mr. Wardlaw-Milne: You make that definition irrespective of any qualification, no matter whether a man be prince or beggar?

U Ni: There might be other qualifications, and I shall be grateful if I am not called upon at the moment to enter upon the exact definition.

Chairman: We must assume in our discussions about the special communities that the questions of vote and domicile and all those things are expressed on reasonable and sensible lines. I think U Ni was taking a rather extreme hypothesis as to who might, or might not, be elected to the Burmese Assembly.

Lord Mersey: May I make one suggestion? There has been a certain tendency on the left towards the communal idea—a very slight movement—if they felt quite satisfied that there was no danger of the very valid objection that the union between the various minority elements might put the majority government in any possible jeopardy.

That is, I think, a real argument. But suppose some agreed proportion of the total minority vote could be come to, would not that, to a great extent, obviate the danger? Suppose—I only suggest a figure—

that the total minority representation combined did not exceed 20 to 25 per cent. of the whole House, would not that meet the position? It would give an opportunity to the minorities to present their case, and it would give a certainty of control to the majority. It is a compromise but it would meet the difficulty to a certain extent and it would give something of what they asked to each side.

U Ba Pe: Lord Mersey has asked whether it would not meet our case if the minority representation in the House is fixed at a low figure. In the first place, we must know who are the minorities who are going to get this representation and how you are going to allot the representation among the minorities.

Lord Mersey: That is a minor point I am concerned with the principle.

U Ba Pe: If that is done, we shall have to know the seats which will be given in the Lower House. But my answer is that we are here to try to discover the best possible way of protecting the minorities. If you fix the minimum low, the minorities will have only very few representatives—five for the Karens, six for the Indians, three for the Europeans, and so on. Now, once that is done the majority will say “ Well, they have their own people to look after their interests; it is not our look-out.” and they will cease to think of the minorities and will have regard only to their own interests. You must remember that the minorities will not have a common interest; the Karen interest will not always be the same as that of the European, and they will differ among themselves. The result will be that they will not be able to do anything and their interests will suffer and we shall not be doing justice to them; we shall simply see them go to wrack and ruin.

Lord Mersey: But if they were satisfied, you would be?

U Ba Pe: We are charged with the task of finding the best possible means of protecting them, and we cannot shirk that responsibility.

Lord Mersey: But if they were satisfied, you would be?

U Ba Pe: It is our duty to point out the position.

Chairman: You say that they are rather misguided, and that you have a method of dealing with the interests of the minorities that is a better one than their method?

U Ba Pe: That is so.

Chairman: But they say—and you have to take into account the views of the minorities—that they think they would prefer their interests to be secured in another way. Now, is it possible to get a common ground between those two opposing views?

Major Graham Pole: Is it possible to hear what any of the minorities would say on the suggestion made by Lord Mersey?

U Ni: My Lord, I should like to finish my speech.

Chairman: I am very sorry: I am afraid I broke into it also. Would you care to finish now?

U Ni: Yes, I will finish now. That is why my proposal is to give the domiciled minorities, those who have acquired citizenship and the others, a place in the Upper House, and to have their fundamental rights defined in the Statute. We will find out what their grievances are: all those things will be properly embodied in the Statute, and a tribunal,

or whatever it may be, can be set up. Whether under the guise of the Colonial Laws Validity Act or something like that, whatever law is passed which is in spirit, or otherwise against these fundamental principles should be declared void; and for that purpose a tribunal can be set up.

Chairman: You are a lawyer, are you not? You therefore know better than I do, as I am not a judge, but I could, if necessary, quote very high legal authority for saying that it is extraordinarily difficult for a Law Court to interpret some of those general propositions which are set out in the preambles to Acts. I have heard that said over and over again in the House of Lords where we have all the big lawyers of the country.

U Ni: I would not mind any other method to supplement the tribunal which may be appointed not only by one party, or the Government, but by two or more parties.

Chairman: I do not know whether others would like to speak now or to think it over.

Sir O. de Glanville: Does Your Lordship wish to hear the views of the Minorities on the suggestion thrown out by Lord Mersey?

Chairman: I think it would be of value.

Sir O. de Glanville: I will be very brief, My Lord, I think I have already expressed the view that I want the majority in the Council to be a real majority and to be a Burmese majority.

U Ba Pe: Not Burmese—Burman.

Sir O. de Glanville: I am making no claim on behalf of the Minority communities for that percentage. We have heard stated the various views, and when they add up we can quite see that when we add them all together it is impracticable. Speaking for myself, and I think for the other two representatives we are perfectly willing to discuss some reasonable number which will suit the members on the other side and I hope satisfy ourselves. We are not pledged to 10 per cent or 15 per cent or anything of that kind. The Karens, of course, are in rather a different category, as are the Indians, Europeans, and the Anglo-Indians. We might agree among ourselves in consultation with some of the others to state a percentage which I think might be agreed to.

Chairman: Of course, as far as we have got, I could do two things. I could say; Well, we have had the subject pretty thoroughly discussed; and I could do my best to report and balance the views that have been stated on either side. That is one course. The other course would be to adjourn the discussion and to see if the parties concerned and some of the leaders concerned could possibly arrive at some basis for agreement—I do not say exact agreement. If that is possible, I think it would be a very good thing; but I must be in the hands of the Delegates of the Conference on that point.

Mr. Cowasjee: I quite agree with my learned friend Sir Oscar de Glanville that the question as to what proportion of strength there should be between the Indian community and the European community might be discussed between us and we might let Your Lordship know on Monday.

Sir O. de Glanville: No. My Lord; that is not what I intended at all. What I was suggesting was that we would discuss with the other side what percentage we, combined, would like.

Chairman: I thought that was your view.

Mr. Cowasjee: I am quite agreeable to that course also.

Chairman: Well, is that possible?

Mr. Howison: I think before we proceed to revise our ideas of percentages, we should have a clear acceptance from the other side of the principle that minorities should have representation. So far as I have heard, they have not yet declared that they accept this principle, and until they do we cannot usefully proceed further in discussing percentages.

Chairman: Sometimes people are rather unwilling to accept things in principle until they know how they are in detail.

U Ba Pe: Yes; that is how we feel.

Chairman: I may be wrong; but if a conference takes place, I am quite sure that U Ba Pe and others would not oppose an absolutely rigid front to it; and neither party would be committed. If they choose to have a discussion of that sort and come together, then they can bring it up to the Conference if necessary, and we could either discuss it, or it could be recorded.

U Ba Pe: Yes. But you will admit, My Lord, that they should agree amongst themselves. That is their first need. The Karens, the Europeans, the Indians and others should first of all consider their own position, and among themselves they should come to a certain basis for discussion. When that basis is known, then only can we consider it when we know what they actually want. I am talking about the percentage. I could suggest that these representatives of minorities should meet and decide on their own proportion first. Then only can we discuss them.

Chairman: You are not suggesting that they might never be able to agree?

U Ba Pe: No; it is better for them to agree than for us to ask them to agree.

Chairman: But if that be so—you cannot come to an exact agreement, but you might come to a rough agreement—you would be quite ready to discuss it with them?

U Ba Pe: Quite so.

Chairman: Well, I think that is perhaps as far as we can go for the moment.

Sir O. de Glanville: That does not seem quite satisfactory. Supposing we discussed among ourselves the number of seats on a basis of say, thirty-five per cent., the other side would say, "Oh, we could not possibly agree to thirty-five per cent." Then we should have to go back and think it over and discuss it again on the basis of something else. What I think has been suggested—and I think it is a reasonable suggestion—is to ask them what proportion they would be prepared to allow us.

U Ba Pe: We would bind ourselves to the principle of communal representation in that case.

Lord Mersey: It does not bind you.

Mr. Cowasjee: What is the object of the discussion?

Chairman: After all, somebody must come together on some basis and discuss, I suppose.

Mr. Cowasjee: Yes; otherwise there is no object to discuss.

Chairman: There are two methods. They could come together and agree as to a general figure of representation, and then could not the minorities afterwards among themselves, divide that portion, as it were, into proportions that would suit them?

Major Graham Pole: Would it be possible on this occasion to have a sub-committee that should report to us on Monday morning—a sub-committee consisting, say, of U Ba Pe, Sir Oscar and perhaps a Karen representative—a very small sub-committee to try and work it out? I think three would be enough.

Chairman: I agree that three is better than fifteen, but would it not be better to have something not so formal as a committee meeting? Would it not be better to have a few gentlemen meeting together and discussing it?

U Ba Pe: No, Sir. What is the basis for discussion?

Chairman: The basis for discussion would be to see whether you could arrive at a fair general percentage for these special community seats to which you might be prepared to agree.

U Ba Pe: That is admitting the principle of communal representation.

Lord Mersey: You need not admit anything till afterwards.

U Ba Pe: We are prepared to consult with the representatives of the minorities as to special provisions in the Act itself, or else an arrangement of constituencies so that there would be some of the members of the minorities returned to the Lower House. We want them to consider these points among themselves and have their views upon it, because they, also, admit that communal representation is bad in principle. They agree with us that communal representation is bad in principle. We have to try and find out alternatives that will be a real protection of the minorities. I should like them to examine it.

Chairman: The difficulty is that, I think, the minorities have arrived at the conclusion that they would not feel they were satisfied.

Sir O. de Glanville: We considered this long ago. This is not a new subject to us, and we are all, I think, of the same opinion still, even after the speech of U Ba Pe. We are not satisfied with a statutory provision.

Mr. Cowasjee: I do not think there is any purpose served in discussing this matter further.

Chairman: This is a point of extreme importance, affecting the composition of the legislature. It is a point that I do not like to let go merely by reporting that there was a difference of opinion, if it is at all possible to get some approximation of views.

U Ba Pe: I wish Your Lordship to understand our position. We are here, so far as this side of the Conference is concerned, with no idea of refusing guaranteed rights to the minorities. We are as

anxious as they are that there should be special protection for them, but we are also anxious that, whatever form of protection is given to them, it should not militate against the proper working of the constitution. Once we admit the principle of communal representation, the question comes up as to who are the communities for which we are going to provide protection. There are several communities in Burma—several others in addition to those whose claims have been mentioned. Are we going to provide for them all? We must have a proper conception as to who are the real minorities.

Chairman: You are not suggesting that we are dealing with any minorities except those here represented?

U Ba Pe: There are others. There are the Chinese.

Chairman: Oh, I dare say we could enumerate some. But must we not for the purpose of this Conference assume that the important minorities are represented in this Conference?

U Ba Pe: The Indian community is divided.

Mr. Cowasjee: They are not divided.

U Ba Pe: I maintain that they are divided, and what has been said by U Aung Thin is a proof of that.

Mr. Cowasjee: If there are divisions they do not concern you.

U Ba Pe: They concern me as a citizen of Burma, and I have every right to protest against the inclusion of minorities who are not real minorities in the sense of permanent settlers in Burma. We cannot allow these people to have a say in our constitution.

Chairman: I am sorry; I was very anxious indeed that we should have some basis of agreement, and indeed I thought we were approaching it, because we all want to protect the minorities, but are unfortunately, divided on the question of the method by which those minorities should be protected.

U Ba Pe: But if a community claims to be a minority, it must prove its claim. Because it comes forward and makes a claim, it does not follow that we must admit it. In the case of the Karens it is a plain, straightforward case; in the case of the Zerbadis it is a plain, straightforward case; but with regard to the temporary Indian settlers there is rather a difficulty. So far as the Europeans are concerned, we cannot refuse them rights not on communal grounds but on special grounds. We are willing to do justice to all, but we do not want to be snubbed by those who have no right whatever in the country.

Mr. Wardlaw-Milne: I submit that what U Ba Pe has just said gives point and emphasis to the suggestion that Lord Mersey has just made, namely, that at this moment, it would be unwise to go into the question of what communities or what separate interests should be represented or should be called minorities. That might be left over, but surely the first step would be to decide what total the whole of the minorities should have. The second step might be to divide that total among these minorities.

I think U Ba Pe has made it quite clear—and I think the view is shared by everybody in this Conference—that the minorities—or the separate interests, as I prefer to call them—must be protected. It may be, when the question arises of which are the separate interests, that

there may be differences of opinion, and these may be argued when the time comes; but nobody will doubt that there are at present separate interests which require protection and which require representation.

As a beginning, could not we decide, as Lord Mersey said, that the total number of seats allotted to them should represent 10, 20, 30 or 40 per cent or whatever it may be, of the whole? That might be a first step, and you could then go on to the further step of how that minimum proportion should be split up.

Lord Mersey: Would it meet U Ba Pe if the subject of the informal conversation, of which no transcript would be made and which would not in any way bind anybody, were put in a negative way—that the total representation of minorities in the Assembly, if such minorities were so represented should not exceed so much per cent.? That would not bind anyone to anything, but you would have a maximum figure.

U Ba Pe: That is on the principle of communal representation.

Lord Mersey: I only say that, if it was accepted, the total should not exceed so much.

Mr. Isaac Foot: And you could append a note to it that on the general principle of communal representation U Ba Pe and those who are associated with him and with the other parties are opposed to it in principle.

Mr. Ohn Ghine: May I just state our difficulties? Another difficulty is this. We have made offers to the minority communities to safeguard their interests through the Upper Chamber, and also by a declaration of rights to be included in the Act which brings in the new Constitution. We are not satisfied that those means will not be sufficient to safeguard their rights. The representatives of the minority communities have not said in what way these means will be insufficient to safeguard their interests, and perhaps a little further discussion would clarify the situation.

Lord Lothian: May I ask U Ba Pe a question? I think he has drawn a distinction between communal representation and the representation of special interests.

U Ba Pe: Yes.

Lord Lothian: How would you propose that the special interests should be represented in the Lower House?

U Ba Pe: In the Lower House there should be no communal interest; they should be all on the same footing: Every one must get to the Lower House on his own standing—the Karens through the general electorates. There will be no communal electorate, no communal seat, no special electorate and no special seat. But the special interests should be given representation in the Upper House. Communal representation can be made good in the Upper House but not in the Lower House. In the Lower House we want a clean pukka elected Legislature where there is no community, no special interest and all on the same footing.

Lord Lothian: How do you distinguish between the communal interest and the special interest?

U Ba Pe: I do not think they have any special rights beyond what we Burmans have; we should be on the same footing. But, as a community, they are at present afraid that they will not get their legitimate voice in the Legislature of the country. They want special representatives to speak for them. But the special interests, as far as I can see, are the Europeans and Indians.

Lord Lothian: Leave out of account for a moment the Upper and Lower Houses. Each of those, the special interests on the one side and the communal on the other, would elect representatives of some kind to speak for them in some part of the Legislature. Is that your view?

U Ba Pe: Whether by nomination or by election, I leave the choice to them.

Lord Lothian: But then will they have their own representatives?

U Ba Pe: Yes, I have no objection in the Upper House.

Chairman: Well, gentlemen, I do not know whether at this stage it is possible to carry this discussion very much further.

U Ba Pe: I think Mr. Loo-Nee wants to examine our proposal very minutely.

Chairman: Well, if that is so, I can only suggest we should adjourn the discussion till our next meeting on Monday, at 11-15. I hope there will be discussions going on in the meantime, but I do not think I can urge you further in the present situation. I do not want to have to report in that general form because it will mean that we have not been able to arrive at any very general conclusion.

Statement by the Chairman regarding the lines upon which the discussion of the Constitution might usefully proceed.

I have been thinking over the requests that were made on Monday, and repeated later, that before the Conference proceeded to discuss the Legislature, I should indicate the outlines upon which discussion of the constitution might usefully proceed; or as my colleague Tharrawaddy U Pu remarked, in reply to Lord Lothian's contention that we should lay the foundation before we start to build, that Government should at any rate supply the architects with a general plan.

Although, as I have already said, I do not myself see how it is possible to consider, with anything approaching finality or precision, the exact degree of responsibility that may be entrusted to the new Legislature until we know how that body is to be composed, nevertheless, I have come to the conclusion that it may be helpful if I give you my impression of the conclusions I have drawn from our discussions, so far as they have dealt with the question of the general outline of the constitution.

Some of the Delegates on my left stated on Monday, that they had drawn the conclusion from the general debate that our deliberations should proceed on the basis that full responsible government on the lines of Dominion constitutions, with safeguards for minorities, would at once be granted.

When I am dealing with such complex matters as constitution-making, I prefer to avoid the use of such general phrases as there; when they are closely examined these general phrases often disclose concealed contradictions and lead to misunderstandings. I should prefer to define our purpose in a rather lengthier and more specific manner. Perhaps I may recapitulate and slightly amplify what I said in my opening speech at the beginning of the general discussion. I have every reason to believe that it represents the view of His Majesty's Government.

In the first place, we are agreed that the primary task which we have been invited to undertake is to devise the lines of a constitution for Burma on the assumption that she is to be separated from India. This means that the functions of the Government of the new Burma will include subjects now classed as Central as well as those classed as Provincial. If we were only to deal with Provincial subjects we would hardly need a special conference; the general plan adopted for other major Provinces would indicate the line of advance in Burma.

I quoted the words of the Secretary of State on the 20th January, that the objective after separation will remain the progressive realisation of responsible government in Burma as an integral part of the Empire. Now I really think that that gives us sufficient guidance; but I do not mind amplifying it a little if it will help.

What we are seeking to do is to evolve a plan of government which will progressively devolve on the Legislature responsibility over the whole field. But I referred to the observations of the Prime Minister on 19th January that, in the case of India, special provision must be made for the control of matters in regard to which, the people of India are not at present in a position to assume responsibility and for the guarantee of certain existing obligations, and I went on to say that this consideration applies no less in the case of Burma: and that we must try to agree on the means for safeguarding these essential interests until Burma has had time to gain experience. But I pointed out, as the Prime Minister pointed out in respect of India, that we should try to frame the safeguards in such a way as not to prejudice the prospects of realising the final goal.

If you are anxious to have this reduced to a formula I think we might say that what we seek to devise is a constitution which will have in it the means of growth towards the declared goal of complete responsible government, but will contain provisions necessary to safeguard certain obligations and interests. To take particular examples, which should not be regarded as necessarily an exhaustive list, I think it is obvious that in Burma, no less than in India, Defence and External Affairs must be reserved to the Governor of Burma as the representative of the Crown and Parliament. Certain special areas should also be reserved to him and he must be given power also in regard to Finance to secure the obligations which will fall on Burma as a result of separation and to maintain unimpaired, or rather to build up the financial stability and credit of Burma. The Governor, I think we shall all agree, must also be made responsible, as representative of the Crown and Parliament, for securing the rights of the Services and those of Minorities and commercial interests, and

in the last resort for maintaining the tranquillity of Burma, and must be given statutory power to carry out those responsibilities.

(*The Committee adjourned at 5-25 p.m.*)

Proceedings of the Sixth Meeting of the Committee of the Whole Conference, held on Monday, the 14th December, 1931, at 11-15 a.m.

HEAD 3.

CONSTITUTION OF THE LOWER HOUSE—*continued.*

(v) *Nomination.*

(vi) *Representation of Minorities Communities and Special Interests—continued.*

Sir O. de Glanville: My Lord, there have been some discussions which were mostly, in fact entirely—conducted by myself yesterday with members of the Burmese Parties. Of course they were purely informal. Whatever happened yesterday is not binding on any of us, but it was generally agreed that it would be a good thing if we had a small committee which would discuss this question of Minorities; and that the committee should not be a sub-committee of the Conference but a purely informal committee presided over by one of the Delegates sitting opposite me.

Mr. Wardlaw-Milne: Presided over by whom?

Sir O. de Glanville: We suggested Lord Lothian, if he would agree. There are two points, My Lord. Since then I have discussed it with the representatives of the Minorities. There are two main points that will have to be decided. The one is the total percentage to be allotted to Minorities and the second is the allocation of seats to the Minorities within that proportion. On the second point, I am afraid all the Minorities want to be represented fairly strongly. All of them agree that a small committee, if it is agreed to form one, should consider and try to arrive at an agreement only on the total percentage to be allotted to the Minorities. It is on those lines that I would suggest a committee, which I hope would be able to arrive at a unanimous decision. As regards the allocation, as every one wants to be on, we might as well have that allocation done in open Conference. I mean the allocation of seats to the different minorities after we have agreed the percentage.

Chairman: Your suggestion is that it would be an informal Committee, and at a certain stage if you had arrived at any conclusion you would come and report informally also to the Conference?

Sir O. de Glanville: Yes.

Chairman: Of course, there is the other way of doing it. Personally, I think your way is better. There is the other way of deliberately setting up an informal committee after calling together

the Business Committee presided over by Lord Mersey. Then you would have a very formal committee. Well, there are difficulties about that, because then the question of representation becomes more difficult; but if it is an informal committee, I think you can get over those difficulties of representation a little more easily.

Sir O. de Glanville : Yes.

Chairman : Then if you were to say that the Minorities would be represented, you mean you simply announce that informally to myself here, and the Conference and you would proceed to meet in your own way as you choose. One wants to get an expression of opinion, for instance, from U Ba Pe on the subject, just to know what is going on; and possibly Lord Lothian might like to say a word as to the suggestion that you have made as to him. Would you like to say a word, U Ba Pe?

U Ba Pe : My Lord, we had a private and informal discussion on the subject and, without sacrificing our principles in regard to our position as to communal representation, we stated that we had no objection to participating in this informal committee where we can thrash out the matter more thoroughly. That is our position. And we will have equal representation from this side to the number of the Minorities' representation.

Mr. Cowasjee : My Lord, we are also agreeable to this informal committee; but with reference to the other point which Sir Oscar de Glanville made, that as to the question of the allotment of seats the Minorities should please themselves, that that should be discussed before this Conference. I think that matter might also be discussed informally among the representatives of the Minority communities concerned. So if we can come to some agreement there, there will be no reason why the allotment of seats among the minorities should be discussed before the Conference. I submit that the same principle ought to apply as regards the apportionment of seats among the minorities; but that matter might be considered at a later stage, after we have come to an agreement between ourselves, as a joint body, and the majority community.

Chairman : Yes. That is the second point, is it not? Perhaps we had better dispose of the first point first. I will say a word on that in a moment. I do not know whether Lord Lothian wants to say a word about it?

Lord Lothian : I would like to give my decision later. I think it requires a little consideration as to the capacity in which, if I were to do this, I should do it—whether I should do it in a purely personal capacity or whether I should do it in a capacity as representing the Government.

Lord Winterton : I would like to say—I do not know whether I am speaking for the other British delegates—that it would seem to me a good plan which has been suggested, and, personally, I am in favour of it. I hope it will succeed in arriving at a solution.

Chairman : There is a general agreement, I understand, that that should be done. I do not quite know who will convene it. Perhaps I had better leave that as it is, informal.

(The following discussion, which took place immediately after the luncheon interval, is inserted here for convenience of reference.)

Sir O. de Glanville: My Lord, before we resume the discussion might I mention that we have decided on the names of those who should form the sub-Committee.

Chairman: I understand the Committee is going to meet this afternoon.

Sir O. de Glanville: Yes. Does Your Lordship wish to know the names.

Chairman: I am quite ready to hear them.

Sir O. de Glanville: The members will be Sra Shwe Ba, Mr. Haji, and myself on this side.

U Ba Pe: And on this side there will be U Maung Gyee and Mr. M. M. Ohn Ghine and myself.

Lord Lothian: I would like to say that I have been invited to be Chairman and I shall be very glad to act on the understanding that I do it purely in a private informal capacity and not in an official capacity.

Statement made by U Chit Hlaing, Tharrawaddy U Pu, and U Tun Aung Gyaw in reply to the statement made by the Chairman on Friday, the 11th December, 1931, regarding the lines upon which the discussion of the Constitution might usefully proceed.

U Chit Hlaing: This statement is signed by myself, Tharrawaddy U Pu, and U Tun Aung Gyaw.

My Lord Chairman, having fully considered the statement made on 11th December by Your Lordship with reference to the objective of this Conference, we regret to find that it falls far short of the aspirations of the people of Burma. It frustrates the hopes even of those who came to this country to secure for Burma, a constitution providing her with immediate and full responsible Government together with the status of a Dominion on equal terms with other Members of the British Commonwealth.

At the outset, we may explain that all the Burmese Delegates who came here directly from Rangoon did so after having had full discussion with our leading Pongyis (Priests). At the Conference with the Pongyis a resolution was passed, to which we were signatories, and which required us to return to Burma for further discussion if full and immediate responsible Government be refused at this Conference. Any constitution based upon a different and lower status was also agreed to be rejected without hesitation.

Even the most casual reading of your statement would make it quite clear that the aims of His Majesty's Government cannot be reconciled with our objective.

You have been pleased to regard our joint demand for full and responsible government on the lines of a Dominion constitution with safeguards for Minorities as being couched in "general phrases which often disclose concealed contradictions and lead to misunderstandings." One cannot but be struck by the fact that what you propose to brush aside as vague generalities are just the phrases in which the Prime Minister has thought it proper to announce his Statement of Policy regarding India.

The mistrust thus created is bound to be deepened by a mere repetition of the 1917 formula in the case of Burma as "an integral part of the Empire"—a concept admittedly no longer applicable to India. As is well known, the deliberations of the Indian Round Table Conference have been conducted on the basis of subsequent declarations of the Government policy which have been made on frequent occasions either to supplement or to elucidate the announcement of 1917. The successive pledges and obligations of the British Government seem to have been utterly disregarded in the consideration of the objective in Burma. We feel convinced from the tenor of Your Lordship's statement, that it is not the intention of His Majesty's Government to extend to Burma the policy outlined for India by the Prime Minister on the 19th of January last, and re-affirmed at the end of the last Plenary Session of the Indian Round Table Conference. It is, doubtless, true that some words and phrases occurring in that announcement have been interpolated in your statement but that cannot deceive a discerning and critical eye.

As we have stated before, our mandate from Burma, or rather, to use language which will be more readily understood here, the gentlemen's agreement under which all our Burmese colleagues are participating in this Conference, asks us to return home in the event of the Conference not achieving full and immediate responsible government for Burma. In this regard, Your Lordship's words can leave no doubt whatever. You have stated that "what we seek to devise is a constitution which will have in it the means of growth towards the declared goal of complete responsible government." We need add no words of ours to bring out the radical difference between our respective points of view.

Your Lordship proceeded to say that the constitution "will contain provisions necessary to safeguard certain obligations and interests." There is no assurance here of the transitory character of the safeguards, which so eloquently differentiates what is proposed for India from what unfortunately seems to be in store for us. Moreover, while the transitional safeguards, which are to be introduced in the Indian Constitution, have to be demonstrably in the interest of India, those proposed for Burma are intended to protect "certain obligations and interests" for all time to come.

As regards the list of subjects to be safeguarded, the heads of defence, external affairs and finance, which are exhaustive in the case of India, are referred to in your statement as so many illustrations of what British Government regards as essential safeguards. We need not go, at present, into the further details of these matters.

There is one more point to which we would like to allude. We have now seen the nature of the constitution, which Burma will get after separation, if the policy of separation, now provisional, is confirmed as a result of the findings of this Conference. If, therefore, the Government's attitude is not going to be modified, we declare that the separation of Burma from India, at this stage, is full of grave menace to the future of Burma.

It is our deliberate opinion that Burma should continue in her prospective position of an autonomous Province in the Indian Federation. To meet the various questions arising out of this position, we

have to request the British Government to make the necessary arrangements for Burma to participate fully in all the work which we know is being undertaken to evolve the details of the Indian Federation Constitution.

In conclusion, we would not be true to ourselves if we did not make it clear that it would be impossible for us, under the circumstances arising out of your statement, actively to participate any further in the deliberations of this Conference. However, we are still hoping that the Government may, even at this late stage, modify their attitude and bring it in consonance with the national demand in Burma, thus enabling us fully to take part in the work of framing the future constitution for Burma. To this end we propose to remain present at all the sittings of the Conference without actively participating therein. And with a view to record our strong disapproval of the lines on which the Conference is now to proceed, we propose at this stage to withdraw from the Conference for the day.

(*U Chit Hlaing, Tharrawaddy U Pu, and U Tun Aung Gyaw then withdrew.*)

HEAD 4.

THE FRANCHISE FOR THE LOWER HOUSE.

The following points for discussion in connection with this Head were drafted by the Chairman:—

Is it considered there should be any change, and if so, what change, in the franchise in Burma?

Chairman: I think we may now proceed with our business. Is it considered there should be any change, and if so, what change, in the franchise in Burma?

Sir O. de Glanville: My Lord, as nobody seems inclined to open this discussion may I throw out a suggestion which will possibly lead to some debate? We have a franchise now in Burma, and I should like to suggest that the new Constitution should contain clauses enabling that franchise to be extended or to be modified later. My suggestion is that we should start our new Constitution on the present franchise, leaving it to be extended as the new reformed Council may consider necessary from time to time.

Mr. Harper: I should like to say that I thoroughly agree with Sir Oscar de Glanville, and in support of his suggestion I should like to quote some of the figures which are to be found in Volume I of the Report of the Indian Statutory Commission. On page 191, it will be seen that Burma, in comparison with India, already has a larger number of adult male voters than any other Province of India. That is an absolute figure. Burma, also, has a far bigger proportion of electors to population than any other Province. The average throughout India, excluding Burma, is 2.8 per cent. of the population, whereas for Burma it is 17.4 per cent. The proportion of male electors to the adult male population is as high in Burma as 60.3 per cent., as against 10.4 per cent. in India.

On page 383 of the Statutory Commission's Report it is shown that the proportion of literates, men who are 20 years of age and over, in Burma is 62 per cent., which approximates to the proportion of adult electors in the adult male population. On those figures there seems to be little case for increase at the present time in the franchise,

and that argument is further supported by the fact that, so far, only 18 per cent. of the voters have actually exercised their vote. There have been three elections, and the figures are given at page 197 of the Statutory Commission's Report. In 1922 6.92 per cent. of the voters exercised their vote. That was the first election, and naturally one would expect the figure to be small. In 1925 it went up to 16.26 per cent., and in 1928 to 18 per cent., so that it would seem that there is a long way to go yet before we can say that the present franchise is being at all fully used. I should like to support very strongly the suggestion made by Sir Oscar de Glanville that the franchise should be left alone for the present. There are plenty of things to be done in getting this new Constitution going without upsetting the franchise, and I support the suggestion which Sir Oscar has made, and which is taken from the Statutory Commission's Report, para. 95 of the Second Volume, which was quoted the other day, the suggestion being that after a lapse of 10 years the Legislature itself would have power to alter the franchise as seems best at that time, or at any rate to carry a resolution for submission to the Governor.

Lord Winterton: I take a special interest in this matter because I was responsible for getting through the House of Commons the Bill which conferred reforms upon Burma, a part of which naturally dealt with the question of the franchise. We went very carefully at that time into the question of the basis of the franchise, and I have no reason to doubt that we chose what was the best course in the circumstances. I think that there is every case to be made out for a continuation of the existing basis; I agree with Sir Oscar de Glanville and with the last speaker on that point. I think, also, the power must be given to the new Legislature at some time or other to alter the franchise if it so desires, but I equally support, as do the last two speakers, the suggestion that was made on that head in the Simon Commission's Report. The numbers voting under the existing franchise have been very small. Arguments have been brought forward which may or may not be sound ones—I express no opinion on that point—to show that the reason for the smallness of the number of those who exercised their right to vote was to be found in certain political conditions which will not prevail in the future. I do not know whether that is so or not, but in order to satisfy Parliament, which will have eventually to be satisfied, that an extension of the franchise is desirable, it would be necessary to show that a much larger proportion of existing voters are exercising the franchise than has actually been the case up to now. That is another reason for leaving the franchise at the moment on the existing basis, with power to the Legislature to extend or amend it in any way at some future date.

U Ba Pe: I am afraid I cannot agree with Sir Oscar de Glanville or Mr. Harper. Burma, unlike other countries, is in a very favourable position for the institution of the most up-to-date democratic institutions. Mr. Harper refers to only 6.92 per cent. going to the polls in 1922, 16.26 per cent. in 1925 and 18 per cent. in 1928. But he forgets the forces working against the electors in Burma at present. In the first place, the electoral rolls prepared by Government are not correct.

Chairman: In what sense not correct?

U Ba Pe: The Burmese name in Burmese will be spelt "Maung Sain," but in English it may be transcribed as "Maung Sein"; so that they will always ask him "what is your name?" He will say "Maung Sain." Then they will say: "In English it is "Maung Sein"; you are not the man; clear out."

Chairman: You mean they do not always put on the roll the name of the individual that is coming to vote, is that it?

U Ba Pe: Yes; that is the language difficulty—the difficulty in writing the name in English in the urban areas. It is not so in rural areas. It is very difficult to explain. The name "Maung Sain" with two little dots in the Burmese script means "Maung Sain." In writing out the electoral roll, if the writer omits those two little dots when transcribing into English, "Maung Sain" becomes "Maung Sein," with an "e" instead of an "a".

Chairman: I quite understand. You mean that written in one way it does not appear to be the name of the individual.

U Ba Pe: I have come across several cases even in Rangoon town—a large number of cases of *bona fide* electors qualified who are turned out on that score.

Lord Winterton: May I ask U Ba Pe a question? I am very interested in this question. Can he give us any indication—naturally it would be a very rough indication—of the number of voters who would be affected by this, what shall we call it, mistaken identity?

U Ba Pe: Yes, I will tell you. In the villages, in addition to this difficulty arising from this defect in recording the names, the name of the father has also to be there. There also the man may give the right name but the father's name may be different on account of this defective recording. I had the experience of conducting a by-election in what is known as Hanthawaddy East Division. From one village some 40 voters turned up of whom only five were correctly recorded. These voters were certified by the village headman to be *bona fide* voters from their villages, yet their names were not correctly recorded on the roll and they were rejected by the Presiding Officer.

Chairman: Your point here is that persons were put on the roll, shall I say under their wrong names, so that when they actually came to try and vote they were prevented from voting because their names were improperly entered?

U Ba Pe: Quite so.

Chairman: That is a matter of administrative detail, is it not?

U Ba Pe: Yes, but it has the effect of reducing the number of votes.

Chairman: I quite see that; but I was going to say, may we assume for the purpose of discussing the wider question of the franchise that this administrative mistake is put right. We assume, therefore, that everybody who is on the roll will be entitled to vote, and now there will not be that diminution in the number of those who do vote simply because their names are not properly recorded on the roll. To put it in another way, supposing you take the percentage

of those who do vote, what percentage would you take if you assume that everybody is properly recorded.

U Ba Pe : I will come to that point later.

Chairman : But I think the broad question is, is this franchise sufficiently wide already? Let us assume for that purpose that everybody is correctly recorded.

U Ba Pe : No; the point is this. Mr. Harper's statement amounted to this. Though we have only had a limited franchise up till now, very few have exercised the right to vote. I want to point out that that is not due to a mistake of the people; it is due to circumstances over which they have no control.

Chairman : I appreciate that fact. I think Lord Winterton's question was, supposing we will say, 16, or whatever it might be, as the percentage that voted in a particular election, can you give any rough figure to indicate the extent of these mistakes by suggesting what, in your view, anyhow, the figure is?

U Ba Pe : May I just take this. In one village, out of 40 only five were allowed to vote. That is only one village.

Chairman : Out of 40 who presented themselves at the poll and should have been on the record, only five were actually on it?

U Ba Pe : Yes. Forty villagers turned up and presented themselves at the polling booth to vote. Their names were not correctly recorded there. There was something wrong with the men's names and the Enrolling Officer had not recorded them correctly. The village headman certified that these 40 men were from his village and that they were *bona fide* voters, but there was objection from the other candidate and the Returning Officer had no alternative but to refuse the votes; so out of 40 people only 5 got the franchise. That is due to the faulty compiling of the electoral roll.

Chairman : That is an administrative detail that can be put right.

U Ba Pe : Yes. I am not saying that they are past correction, but the argument advanced by Mr. Harper cannot be a consideration for not widening the franchise, because there are other factors in connection with the same point. The number of polling booths is very small. Take the area, Prome Rural. That is the whole of the Prome district. There is a population of over 300,000 and the area is something like three or four counties, or nearly five counties together—a little more, I think. How many polling booths are there? Twenty. For that big area there were only twenty polling booths, and in some of the places the villagers have to travel the whole night and stop in the place where the polling booth is situated in order to exercise their vote.

Chairman : So you say you want more polling booths?

U Ba Pe : Yes. I am not asking for more polling booths; I am just pointing out the conditions which result in a low percentage of the voters recording their votes. Then there is another thing—the communications are very bad in parts of Burma. I stressed that point the other day, so I need not go into it now. There is, also, the time of the election, which is not suitable to the people. November is the time for a general election, but November is the harvest time.

Parts of the fields are planted with paddy crop, and the people have to cross their paddy fields along the ridges where they are likely to encounter very poisonous snakes which abound in some districts, and yet they have to go to vote under such conditions. Then there is the boycott by a section of the people. All these together have the effect of reducing the percentage of the votes recorded at the poll, so this should not be taken as a good reason for not widening the franchise. That is my point.

Mr. Harper : May I ask a question on that? Could U Ba Pe give us any indication, on the lines asked by Lord Winterton, of what he considers would have been the proportion if all these defects had been remedied and if the boycotting party had voted?

U Ba Pe : It is very difficult to say, because you must have good communications, you must have a larger number of polling booths, and so on. It is rather difficult. But take Rangoon Town. In Rangoon Town the percentage is very high. Mr. Harper knows that, of course; I need not tell him. Where there are more facilities for the voters to exercise their right, there you have a higher percentage.

Mr. Wardlaw-Milne : My Lord, I should like to put this point to U Ba Pe. I think these points he has raised are very important points, and they are very interesting, and they are not, in a very much more minute form unknown in this country. We suffer from a lack of polling booths, and even here we sometimes suffer from a lack of communications.

Lord Winterton : And with every extension of the franchise you get a smaller proportion of voters.

Mr. Wardlaw-Milne : Yes; as Lord Winterton reminds me, with every extension of the franchise you get a smaller proportion of voters. All these points, as I say, are extremely interesting, but, with all respect, I want to put it to him that they do not really touch on the point we want first to decide. Assuming, as we must assume, that, as Burma progresses, communications will be easier, voting will be easier and people will take more interest in these matters, and a number of these difficulties, which are bound to arise in the early stages of the working of a constitution will be eliminated, the point we want to get at is this. Assuming a normal proportion of the people vote—it will take years, I agree, to get all these things right—is the franchise as laid down at present sufficient?

U Ba Pe : No.

Mr. Wardlaw-Milne : It would appear to us from what he said that it is not that that franchise is not wide enough, but that there are administrative difficulties in carrying it out. The two things are rather separate, and I should like an opinion from him on the main point of whether, assuming everybody voted in a normal manner, the present franchise would be sufficient.

U Ba Pe : I have just tried to abolish some of the arguments before I came to the main point. There is a general idea abroad, I think, that if you widen the franchise the number of voters will not proportionately increase; those who will record their votes, it is thought, will not proportionately increase with the increase in the number of the voters. That is not so in Burma. You may be surprised to hear

that, but I will give you my reasons. We have, at present, elections to what are known as the Village Committees and the Circle Boards. I will leave out the District Councils and municipalities, because the District Councils are elected by the indirect method. For the Village Council the whole village—all the adults—is allowed to vote, in each village or group of villages.

Chairman: Is that over 18 or over 21?

U Ba Pe: Over 18—those who pay capitation tax. In the case of the Circle Boards, one Circle is about the size of two counties here. The franchise is the same, namely, in Lower Burma those who pay capitation tax and in Upper Burma those who pay thathameda tax are allowed to vote. In those elections the seats were very hotly contested, and the percentage of votes recorded is very high. I am not in a position to give the exact figures, because I have not got them here, but in some districts something like 90 per cent. of the voters went to the poll. That is possible because in a limited area the difficulties due to communications and other causes are not so great as in the case of an election for the Council. You will see, therefore, that an increase in the number of voters in Burma does not necessarily mean that the proportion of those who present themselves at the polling booth will be reduced. As a matter of fact I am hopeful that in Burma most of these people, when given the facilities, will go to the polls, because they are used to it now. It is not a new thing to them, and they have taken to this system with great interest, so there should be no fear that they will not make use of their right.

There is another aspect of the matter. The present franchise is not fair, especially to the women of Burma, and in Lower Burma particularly. In Lower Burma we pay what is called a capitation tax, which is Rs. 2-8 for an unmarried man and Rs. 5 for a married man. Now, the women do not pay this tax, and thus they are entirely left out.

Chairman: You are referring to the capitation tax?

U Ba Pe: Yes. They are entirely left out in Lower Burma. This is from the memorandum submitted by the Government of Burma to the Indian Statutory Commission:—

“ Of the total number of female registered voters in the Province, 85.9 per cent. are in Upper Burma and 14.1 per cent. in Lower Burma. The reason for this contrast is that in Lower Burma women do not pay capitation tax, whereas in Upper Burma they pay thathameda tax on behalf of assessed households of which they are the heads. ”

By those means large numbers of women voters were left out. If they are allowed the same franchise as their husbands they will, of course, exercise their vote, because the same conditions apply to the male and female vote in the same area. Those unmarried men who pay Rs. 2-8 per annum as capitation rate are also left out. Only married men paying 5 rupees can come on the register.

Chairman: The unmarried man pays less than the married?

U Ba Pe: He pays Rs. 2-8 per annum.

Chairman : I do not want to interrupt your argument, but I should like to make one suggestion. You are proposing a considerable increase in the number of voters. You have already told us that, the communications not being good and the number of polling-booths being small, and the method of putting people on the register not being very accurate, there would be a considerable expansion in the present number of voters under the existing system if these things were put right. It is quite clear that the difficulty about polling-booths and communications will enormously increase if the number of voters is going to be increased largely and that will take some little time to put right. Again, if you enlarge the number of voters very much you are bound to have a redistribution of seats, and that, also, will take a great deal of time. It will be necessary, in fact, to have a franchise committee to redistribute the seats, and that obviously must delay the bringing in of a Bill passing through Parliament. Would you address yourself to this point? Would it not, in some form or other, be better to leave over the extension of the franchise, anyhow on a large scale, until the new Parliament is established in Burma, when it can take measure, either for first election or for subsequent elections, as it may wish? Would it not be better to do this than to set going from the first, this tremendous machinery which would entail a franchise committee and a good deal of delay? I think that point is worthy of consideration.

U Ba Pe : I do not know whether there will be delay, but one thing I am certain of, that no reforms will be popular unless the consent and co-operation of the people of Burma were obtained in regard to the new Constitution. If we leave them out of account, they will be hostile to us at once.

Chairman : I understand that about 60 per cent. of the men can now vote, can they not?

U Ba Pe : I will explain. These men give the vote in the election of village committees and local bodies, and they ask why should they be barred from the Council vote.

Chairman : But have not 60 per cent. of the adult men in Burma the right to vote for the Provincial Council?

U Ba Pe : Yes, but what about the other section who pay Rs. 2-8?

Chairman : I daresay there are others who cannot vote; but a pretty large proportion already, 60 per cent. of the men, are entitled to vote for the Provincial Council?

U Ba Pe : Yes; but if you had 5 or 6 per cent. more you have the whole thing, and there will be no grievance; it becomes adult suffrage. A little extension means practically adult suffrage in Burma. There is this difficulty: this capitation tax is very unpopular. In Burma we are trying to find out either a substitute for this tax or the elimination of this tax in accordance with the wishes of the people. If we have to abolish this tax then the basis for the franchise is gone.

Chairman : I do not wish to carry the argument too far, but of course the abolition of the capitation tax is a matter for the new Government, is it not?

U Ba Pe : Yes.

Chairman : And of course it is a matter for the new Government also to find the money which they do not get by the capitation tax?

U Ba Pe : Yes.

Chairman : That takes a little time, and would they not want, therefore, a little time to consider what should be the new basis of the franchise if you do away with the existing basis; is that not so? I am only suggesting that all these things seem to stretch out into a certain number of years—say 2 or 3 years; because you have got to alter your financial basis and you have got to alter your franchise basis; and then you have got to redistribute and put up new polling-booths and extend the polling arrangements generally. Are you not delaying things rather? I am suggesting that if you start the new constitution with 60 per cent. of the men voting, you get the thing started anyhow; whereas, if you do not do that, there will be considerable delay.

U Ba Pe : There is already. As a result of the introduction of the elective system in the local bodies a great impetus has been given to this system. People are very restive among those parts of the population which do not exercise the vote in Legislative Council elections. They are agitating and demanding the right to be included in that category; so that it is very difficult to refuse them I think.

Chairman : Yes, I think I understand that point. I am only suggesting that even though they may be restive, these things take time.

U Ba Pe : May I read out the opinion of officers in Burma who know the local conditions?

Lord Mersey : Would *U Ba Pe*, in a few words, give us the suggestions that he has in view. I think if we knew what the suggestions were it would perhaps make it easier for us to understand. I understand it is a very small alteration he wishes.

Chairman : Well, it is the whole basis.

U Ba Pe : What I am after is adult suffrage because, at present, we have practically manhood suffrage, and if we make it adult suffrage the addition will be the wives of those men who are paying Rs. 5 a year as capitation tax *plus* those unmarried men who are paying Rs. 2-8. Then I want to raise the age from 18 to 21; that will reduce it a bit. That will satisfy the whole country. There is no differentiation whatever.

Lord Mersey : Would that require redistribution of seats?

U Ba Pe : Redistribution of seats will come in any case whether you keep the same franchise or not because you are going to increase the number of seats.

Mr. Wardlaw-Milne : It would appear, therefore, that the agitation comes entirely from the women, as I gather.

U Ba Pe : From both.

Mr. Wardlaw-Milne : I gather from *U Ba Pe* that it would certainly appear so. The increase he suggests even to adult suffrage and raising the age to 21 would only put a few more men—a comparatively small percentage, an extra number of males on the register, but it would bring in a very large number of women. He says that, if

this is not done, there would be no satisfaction in Burma. I can only assume that all the agitation comes from the women.

U Ba Pe: As well as from the unmarried men who are paying Rs. 2-8 a year at present. It will be from both directions.

Mr. Graham Pole: As I understand it, the unmarried man who is paying Rs. 2-8, if he gets married has to pay Rs. 5 because he has got a wife, and he gets a vote then?

U Ba Pe: Yes.

Mr. Graham Pole: Although he does not get the vote when he is only paying for himself as an unmarried man.

Chairman: Then raise him to Rs. 5 and then he will get his vote.

Lord Mersey: *U Ba Pe* says these are slight alterations. Would it not be better for the new Government to start on a career of popularity by making these concessions. Let them take off the capitation tax; let them extend the vote to the bachelors and to the ladies. I think that would give them a very good start. It need not necessarily delay things here.

U Ba Pe: You will have a difficult position in the country. We do not want to start the new constitution with a hostile population.

Mr. Wardlaw-Milne: Would you not think it wiser, as a practical step, for the Conference merely to take the line that these matters require looking into sympathetically? It seems to me that we are going into details which it would be almost impossible for this Conference to deal with. I suggest with great deference that it would be very difficult for us to deal with them, and that it would require expert enquiry on the spot. I should think that *U Ba Pe*'s fear of unpopularity would be met by a statement by the Conference that these are matters that will have to be enquired into by the Burmese Government by means of a Franchise Committee or in such other way as they thought best. Surely that would get over the difficulty and enable the Conference and the Bill to get on.

U Ba Pe: The suggestion thrown out by *Mr. Wardlaw-Milne* does not get over the difficulty of those who are not enfranchised at present. You are going to start a new constitution, and you say you are going to look into that later on. The people who are not yet enfranchised will say, "You are sending representatives to the new Legislature whom we have not elected; we cannot instruct them and we have no control over them." That is the position. They are under a practical handicap now.

U Maung Gyee: May I make this suggestion, which will probably meet both points of view. If we accept the principle of adult suffrage we may still keep the electorate within reasonable bounds by adopting the suggestion of the Donoughmore Committee. The Donoughmore Committee suggested that the franchise should be subject to a reservation; that the registration of voters should not be compulsory or automatic but should be restricted to those who apply for it, the method of application being, of course, definitely laid down and widely published. In the view of the Donoughmore Committee, this condition will have the effect of subjecting the actual voting strength of the electorate to a gradual, instead of an immediate, increase to a maximum, and will go far towards ensuring that a potential elector is not

given the vote until he has learnt to appreciate its value. I think this suggestion will meet both points of view.

Chairman: You wish that there should be no formal registration by the State, but that the individual should apply for registration?

U Maung Gye: Anybody who wants a vote on this broad franchise can apply to have his name entered on the roll.

Chairman: Yes, I see your point. The only thing is, U Ba Pe said his difficulty about waiting until an Assembly was established which should deal with the franchise was that there would be a good deal of feeling in the country that they had not had the opportunity of electing the First Assembly. That is what I understood him to say.

U Ba Pe: Yes.

Chairman: You say that the system should be established of people coming voluntarily to claim the vote as they wanted. Well, that would cause a good deal of time to elapse, would it not? Of course, if, as U Ba Pe also says, they all want to be put on the register, I suppose there will be a rush to register. In that case you might just as well have it done officially, might you not? If they all come and want to be on the register at the same time, you might as well make arrangements that the officials concerned should go about and put everybody on the register. That is rather a detail as to how the machinery is to be set going.

Lord Lothian: Do you know what was the actual experience in Ceylon?

U Maung Gye: No.

Mr. Wardlaw-Milne: May I say on that that I have great difficulty in accepting a suggestion of that kind. I know the Donoughmore Committee's Report, but at the same time the conditions in Burma are rather different, and I am not at all sure, as a principle, it would appeal to anyone. It seems to me your difficulty is that you are taking away from the State a duty which devolves on it, and there is a danger that less forward or more backward classes, whichever you prefer to call them, of the community will not make any effort and will not be properly represented. There is always that danger, and I think this Conference has to consider all sections of the community, and that it is the duty of the State to do this work. The only point is that we must not put on the State a duty which is impracticable or impossible for it to carry out.

U Maung Gye: I threw out my suggestion as a kind of expedient.

Mr. Wardlaw-Milne: You do not like it?

U Maung Gye: I do not like it myself. I do not want to delay the introduction of the Reforms, and at the same time I wish to associate the people with the Government from the very beginning.

Mr. Wardlaw-Milne: Is it not possible that my previous suggestion will permit the association of the people with the Government, if not at the beginning, then certainly very soon? There is no real reason why the enquiry I have suggested should not take place almost at once, when these other matters are settled. I do not see that there need be a great deal of delay, and it seems to me impossible for this Conference to do more than indicate that it ought to be enquired into.

Lord Mersey: If you put into the Report a paragraph of this nature it might do:—"In order to avoid unnecessary delay, the Conference recommends that one of the earliest businesses of the new Legislature should be to set up a Franchise Commission with the following objects in view," and then we could detail the points which U Ba Pe has put forward.

U Ba Pe: I think the suggestion made by Lord Mersey is a good one, but before we come to the actual proposal I should like to make a few general remarks, because these remarks may help us in arriving at some workable arrangement. What I have in mind in asking for a wider franchise, for adult franchise, is this. The main advantages of democratic government, as far as we can ascertain them, are the mental training and development which it confers on those who take part in it to the extent of using their vote; its psychological effect on all who have the right to take part in it to that extent; and the guidance furnished to the actual administrators by the more orderly and more prompt expression of public opinion than is possible under other systems. These are its greatest advantages, as far as I can ascertain them, and in applying these to the practical working of any democratic institution in any country, the more the public comes forward and expresses its views the better it will be for the Government, because then it will know at once what the real feeling of the country is.

In Burma the conditions, as I said are very favourable for the introduction of democratic institutions. The Burma Reforms* Committee to which I referred the other day, made some rather interesting remarks in this connection. This is what they said:—

"As our enquiry proceeded we became more and more aware of the difficulties in the way of reducing the franchise within narrow limits, or of drawing a line other than that we had chosen which would not have been purely arbitrary. Most of the official witnesses and practically all the non-official witnesses were in favour of a franchise on a broad basis. Most significant of all was the deliberate recommendation of the Local Government for a basis of franchise which would give Burma an electorate not far short of manhood suffrage."

Chairman: What is the date of that?

U Ba Pe: That was in 1921-22. Since then the wide franchise has had its effect on the whole of Burma, and practically manhood suffrage is in being.

Then there are high officials in Burma whose opinions the Government respect, and who have given their deliberate views on this question. Perhaps I may be allowed to read a few of these opinions. The first is from Sir Morgan Webb, Chief Secretary to the Government of Burma, in 1921-22:—

"I consider it advisable that the qualifications of the electorate for the Legislative Council should be on the wide basis proposed by the Local Government. The following are my grounds:—

(a) Burma is a Province quite distinct from India, so that any Indian precedents as regards size of the electorate may be disregarded;

* The Burma Reforms Committee, 1921-22.

(b) The high standard of literacy in Burma;

(c) The absence of class or caste distinction in Burma, rendering any formation of a restricted electorate a purely artificial creation, not corresponding with any natural division to be found in the Province. Apart from racial divisions, which I consider to be very marked in Burma, there is a uniformity and homogeneity of social classes throughout the Province, difficult to reconcile with a very restricted electorate.

I consider the wide electorate to be something of a leap in the dark. But reforms in India generally are a series of leaps into the dark. I would trust a wide electorate in Burma as readily as I would trust a restricted electorate. I do not consider the members of a restricted electorate will have any more political wisdom or judgment than the members of a wide electorate."

Then there is Mr. S. C. G. Grantham, I.C.S., who stated as follows:—

"It is not a sound objection that a large part of a wide electorate will not be able to exercise its power intelligently. That has been the case with every electorate that has ever been constituted. It is the duty of the educated classes to explain their ideas so that they can be appreciated by the less educated. Proposals which are too complex for this can very well wait until they are appreciated. Generally, the necessity of explaining proposals clearly will lead to their improvement, and though it cannot prevent it, will tend to diminish legislation for the benefit of the wealthy.

Moreover, there will be great irritation caused amongst Burmans unless the basis of the electorate is as wide as that proposed by the Local Government, and even if a narrow basis had other advantages these would be more than neutralised by this.

In fact the basis ought to be wider. . . .

The difference between Burma and India is such that if the idea can be mentioned in India, Burma is ripe for it."

Chairman: These were directed in 1921 were they, to the question of the franchise for the Provincial Council?

U Ba Pe: Quite so.

Chairman: Are you quoting these in the same sense to apply to an Assembly which will obviously have far wider powers?

U Ba Pe: The Burma Legislative Council is the same thing; we shall call it the Assembly.

Chairman: Yes, it does not matter whether we call it the Assembly or the Council. I only mean that this new Council or Assembly, whichever you like to call it, will have a far wider range of subjects to deal with than the old Provincial Council.

U Ba Pe: Quite so.

Chairman: Therefore, are you suggesting that these observations, which were directed towards the Provincial Council with somewhat limited power, should also apply to elections for a Council or Assembly with far wider powers?

U Ba Pe: It should apply with greater force to the new constitution.

Chairman: You think with greater force?

U Ba Pe: Yes; that is so far as the necessity for a wide franchise is concerned. But there is another point with which I should deal in connection with this. The franchise should be conferred only on those who are or will be citizens of Burma.

Mr. Wardlaw-Milne: What is the meaning of "citizens"?

U Ba Pe: I will come to that.

Our conception of a citizen is this. I will state it briefly. It is this: Those who are born and brought up in Burma of indigenous races must be citizens. Those who have settled down in Burma, made Burma their home, are going to sink or swim with the rest of the population there—they are citizens. But those who go there for temporary purposes with no intention of settling down in the country, are not citizens. That is roughly the idea we have of a future citizen of Burma. Of course you can work out the detail. I will not go into details just now; I will content myself with that. I want a wide franchise—practically adult franchise—for Burma. The age should be 21; and that franchise should be given only to those who are citizens of Burma.

Major Graham Pole: I suppose *U Ba Pe* is aware that if instead of going back to Burma he settled here and took a house, he would have a vote in six months.

U Ba Pe: Yes, I know; but I would also remind Major Graham Pole of what will be his position if he crosses the Irish Channel to Ireland or the Atlantic to Canada; he will get the same privilege and the same right as he will enjoy in the British Dominions.

(The Committee adjourned at 1-13 p.m., and resumed at 2-30 p.m.)

Miss May Oung: My Lord, as I have already stated in the general discussion we, the women of Burma, consider that, at every stage of Burma's progress, women's co-operation is absolutely essential and that opportunities for their services to their country should be given by the inclusion in the constitution of a clause, and a definite statement to the effect that men and women shall have equal rights. During past years women have fully demonstrated their capacity for national service. We desire to make our contribution towards the settlement of all the problems of Burma. That is why, from the very beginning, I made the request that we should not be placed in a separate category as a special interest, but that we should be considered as citizens of Burma in our own right. That is one of my strong objections to nomination of women. We want to stand in the open field together with our men owing responsibility to the electorate.

As far as the franchise is concerned, we are of opinion that universal adult suffrage is the only right and just method of securing the representation of the people in a democratic constitution. The simple fact that men and women are human beings should make them eligible for the vote, and should confer on them the right of self-expression.

When women were enfranchised, even on the present basis of equal terms with men, as it was put then, it seemed as if the women had achieved voting equality with men. But in practice we have seen, as *U Ba Pe* has pointed out, that the women have not had this equality.

I would like to give you some figures from the memorandum submitted by the Government of Burma. The population of elective

Burma is just over five-and-a-half million males, and just under five-and-a-half million females. That is the whole population. The population of elective Burma in urban constituencies is about 449,000 males and 250,000 females, and in rural constituencies, about 5,222,000 males and 5,142,000 females. I want you to notice, My Lord, that there is very little difference between the numbers of males and females. Yet when we come to the percentages of registered voters to population we find that in the urban constituencies there are 14.6 males to 6.5 females, and in the rural constituencies the percentages are even more deplorable, namely, 31.6 males to 1.7 females. This memorandum gives the reason why there is this vast difference. It says that of the total number of female registered voters, 85.9 per cent. are in Upper Burma and 14.1 per cent in Lower Burma. The reason for this contrast is that in Lower Burma women do not pay capitation tax, whereas in Upper Burma they pay the tax on behalf of assessed households of which they are the heads.

My Lord, we cannot on any condition accept the present basis of franchise. It is most unfair to the women. You will notice that unmarried men pay Rs 2-8 and married men Rs. 5 as capitation tax, and on that is based the qualifications for the voter. When I made that statement in the general discussion you, My Lord, said, "Oh, well, the men pay the tax."

Chairman: You do not contest that, do you?

Miss May Oung: No, I do not, but I would like to point out that the very fact that the unmarried man pays the smaller tax and the married man the larger, shows that the woman has helped to meet that taxation. And I do not see why, if we have helped to pay that taxation, we should be deprived of the vote.

The Statutory Commission and also the Franchise Sub-Committee of the Indian Round Table Conference both recommended a substantial increase in the present ratio of women to men voters. One suggestion was that the wife over 25 years of age of a man who has a property qualification should vote. To that we object; first, that there should be no difference between the ages of the men and the women and, second, we object to wifehood being taken as a necessary qualification for exercising the right of citizenship. We are of opinion that by no means, whatever, should the elementary rights of a human being be based on some extraneous factor such as wifehood, which is not under one's control, and the very object of democracy would be defeated if such methods were adopted.

My Lord, as you have heard U Ba Pe say, we of Burma have objected to this taxation, the capitation tax; and I have also shown you that if the franchise is based on such a tax it is most unfair to us, and we, as women who have worked with our men for the good of Burma, could not accept such inequality in the franchise. There may be objections on the ground that it would be raising the percentage in such a way that there would be too many women allowed to vote, or that it would be unmanageable. I would like to point out that men and women both take an interest in their country in Burma, and that women have already taken an interest in the local government of Burma. In Ceylon the franchise was raised from 4 per cent. of the total population. The number of registered voters in 1924 was 4 per cent. and from that they have raised it to manhood suffrage. So I

cannot see why in Burma, where the percentage is so much higher, this extra widening of the franchise should not be given. We would like full adult suffrage.

Chairman: You have expressed yourself in favour of adult suffrage for both sexes, without distinction, over 21 That is so, is it not?

Miss May Oung: Yes.

Chairman: What is your idea of the qualification, that is to say as regards residence? Would you say that in a particular area there would have to be a residence from a certain date, a certain time or what?

Miss May Oung: Well, My Lord, I am not going into these details at all. My position is that whatever residence or whatever qualifications may be needed for men voters, absolutely the same qualifications should hold good for women voters.

Chairman: You are not so much concerned with what it is so long as it is the same for the men; is that so?

Miss May Oung: Well, I am concerned in that I think, and all we women think, that adult suffrage is the only just and right method of securing representation in a democratic constitution.

Chairman: Yes, but as regards a period of qualification in a constituency, there must be some, of course, because, otherwise, there would be confusion?

Miss May Oung: Yes.

Chairman: And they must be put on a register. You have no particular strong view about that?

Miss May Oung: Not yet.

Chairman: There is just one question I would like to ask you. It is my ignorance; I only want to know for information. What is the method of ascertainment of age in Burma? Is there some birth registry or some way of calculating it?

Miss May Oung: A birth register. You may not know, My Lord, but we are particular about our horoscopes, so that not only the day and the year but even the time is registered, and these particulars are kept in official lists.

U Ba Pe: The Department does that.

Chairman: There is no difficulty, therefore, in ascertaining the age of women?

Miss May Oung: Both for men and women it holds good, but we have to register births and deaths.

Chairman: Deaths do not come in here, fortunately; it is the age which matters, and therefore the date of birth. You mean that it is quite easy to produce an official certificate of birth on a particular day in claiming the franchise at a certain age; is that right?

Miss May Oung: Yes.

U Ba Si: My Lord, in associating myself with the views of our lady Delegate, Miss May Oung, I should like to make a few observations. I hope the history of the suffragette movement in this country will not be repeated in Burma. I feel that the view taken by some members of the British Delegation has been—"We should like you

to be very short; we have heard enough of your arguments; please let us know exactly what you want." However, I should like to say this. The conditions of our country are full of peculiarities, of which you may be ignorant, and we want to lay before you some of the conditions which are peculiar to Burma and which do not obtain even in other Eastern countries.

Chairman: Eastern or Western?

U Ba Si: In some respects. In regard to women, it is admitted on all sides that they occupy a very high status in Burma; in some respects a higher status than their sisters in this country.

Lord Mersey: Is that possible?

U Ba Si: For instance, in Burma the women generally have control of the family purse

Lord Mersey: But do you think that does not obtain elsewhere!

U Ba Si: Well, it is not the case here. From time immemorial they have enjoyed freedom and equal rights with men in all matters, social—I think in most social matters they take a more prominent part than men—religious and legal.

Chairman: Legal?

U Ba Si: Yes, in legal matters also. For instance, the wife or husband is the heir of the other partner. The survivor takes the whole of the joint property on the death of the other partner.

Chairman: Do you mean in case of intestacy?

U Ba Si: No; in Burma we have no power to make a will. On the death of both parents the children divide the property amongst themselves equally. In case of divorce, husband and wife share the property equally, and in all religious and social matters women in Burma occupy an equal status with men. Therefore, if women are excluded from this power of voting, the history of the suffrage movement here will be repeated in Burma and with greater force.

My Lord, the structure of society there is essentially democratic. I should say it is more democratic than in England, perhaps owing to the absence of family names. There is less class distinction and more fraternity than in England. Therefore, we have, already, practically manhood suffrage. If you add to that women suffrage, then it will be complete adult suffrage. We wish to urge upon you, My Lord, to have this measure adopted straight away. We have asked for the abolition of capitation and thathameda taxes on the basis of which we have the franchise at present because that is very necessary for the pacification of the country. There has been an agitation for abolition for the last thirteen or fourteen years as far as I remember, and, if I am not wrong, the Government even contemplated the abolition of them four or five years ago. For the pacification of the country the abolition of these two taxes is absolutely necessary. So soon as these taxes are abolished adult suffrage should be ushered in straight away.

Chairman: Would you mind telling me your views on the question of qualification or period of residence?

U Ba Si: As Miss May Oung has stated, there should be a qualification for women on the same level as men.

Chairman: I mean the period of residence before you can be put on the register in a particular constituency. Have you any view on that? When you come to make up the register of voters you have to see who should be on the list and who should not be on the list.

U Ba Si: Yes, there must be a residential qualification.

Chairman: I do not wish to press you, but if you have a view I should like to know it. How long do you think the period of residence should be?

U Ba Pe: For those born and brought up in Burma there would be no definite time limit.

Chairman: But if you had an election next month you would have to decide who should vote in a particular constituency. I do not know whether you want plural voting—there is a good deal to be said for that—but if you do not have plural voting you must say that a man shall vote in this constituency and not in that constituency. He could not be allowed to race all over the country. When would you make up the register?

U Ba Pe: Make up the register at the beginning of the financial year.

Chairman: You would make up the register once in each year, and only those who were on the register for that particular place could vote.

U Ba Si: Yes.

Lord Lothian: We have been told that 60 per cent. of the adult males have the vote to-day. Is that right?

U Ba Si: Yes, My Lord

Lord Lothian: What does the remaining 40 per cent. represent? Who are they? Are they the unmarried men, and who else is included in the 40 per cent.?

U Ba Pe: Children.

Lord Lothian: They cannot be children because you say 60 per cent. of the adult males have to vote. Who are the remaining 40 per cent.?

U Ba Si: A large number of them would be bachelors, and the rest would be minors.

U Ba Pe: They would include some men who had devoted their lives to religion.

Lord Lothian: Do not such people have votes?

U Ba Pe: Under present rules they do not own property or pay tax. Under the new proposals they may count as adults, but it is a question to be addressed to their religious orders.

Chairman: They would have the right to vote, but not exercise the vote.

U Ba Pe: That is so.

Sir O. de Glanville: Is it not a fact that this 40 per cent. consists largely of agricultural labourers who own no land? These are adults who pay the Rs. 2-8.

U Ba Pe: Yes, they pay the tax.

Lord Lothian: Are that 40 per cent. educated?

Sir O. de Glanville: The men who pay Rs. 2-8 are just as much educated as the men who pay Rs. 5, except in the respect that marriage may be an education!

Major Graham Pole: In any event, the agricultural labourer, if he gets married, has to pay the Rs. 5 tax, and by so paying gets a vote.

Chairman: Yes, there is actually a penalty on marriage.

Lord Mersey: As I understand it, the proposal for manhood suffrage would add 40 per cent. to the adult male voters, and then Miss May Oung's proposal would double that.

U Ba Pe: Not exactly double it.

Lord Mersey: Well, I understand that it is proposed that exactly the same rights should apply to women.

U Ba Pe: Under our proposal the age is raised to 21. At present the age is only 18. The raising of the age will reduce the number of voters to some extent.

Lord Mersey: You were going to take away the vote from some people?

Mr. Wardlaw-Milne: I should like to ask the recent speakers two questions. If they raise the age to 21, do they consider that there will be any difficulty in ascertaining age correctly? I know the point that has been raised regarding the horoscope which of course, applies in India also, but there is difficulty, is there not, in Burma in deciding ages accurately? Is it going to be very easy to learn the exact ages of all the women? Is there not likely to be some practical difficulties in that respect in getting them on the register?

The second question I wanted to put is this. Do you not think an immediate change like this would be extraordinarily difficult to bring into effect at a moments notice? U Ba Pe has told us to-day very vividly of the present difficulties in recording the votes, the difficulties of getting voters to the poll, of identifying them, of getting sufficient polling-booths and so forth. These things exist after you have had a certain franchise for some time. Now you are proposing to increase the male suffrage, and add enormously to it, the female suffrage, and all in a moment. That will mean that these practical difficulties will be greatly increased. I think that here we have to deal with practical politics. It may be a very desirable thing to aim at adult suffrage, and, so far as I am personally concerned, I think that Burma is in a very curious position in this respect. I go so far as to say from my limited knowledge of Burma that the women are thoroughly justified in asking for the vote. But it is one thing to aim at that as a thing that you may work up to when you get the machinery in working order, and another thing for the Conference to say it should be brought into operation at once. I go back to what I said before, I think the only way of dealing with this subject is for the Conference to express a view as to the goal for which you are working, and to leave a practical committee working in Burma to say how far you may go this year and how far you may go next year; because as I understand it the setting up of all these polling-booths alone would be a very big business. You want to have a working scheme. I suppose it means Government officials to work it, and people have to be trained to do all that work. We know the difficulties in other countries. I should have thought it was wiser if we devoted ourselves to a general statement as to what is the thing to be aimed at and leave the other difficult questions to be discussed on the spot.

U Ba Pe: There is one point which I think Mr. Wardlaw-Milne has forgotten. We are going to have more constituencies. That is reducing the size of the constituency you have now.

Mr. Wardlaw-Milne: Yes, but there are at present five counties.

U Ba Pe: As a result of that you are going to have more polling-booths.

Mr. Wardlaw-Milne: I hope so.

U Ba Pe: That will get over the difficulties you are contemplating. As a matter of fact, I do not see any practical difficulty in Burma, knowing the local conditions there.

U Su: My Lord, I would like to explain the position about the Pongyis in Burma. From the facts as they are in Burma, you will see that the Pongyis are really influencing Burma politics. Only those who cannot influence the Pongyis to act as they wish say that Pongyis should not be considered as political men. In fact, they are really influencing the politics of Burma; so I would like to propose that Pongyis should be given votes in the next elections.

Chairman: That they should be given votes at the next election?

U Su: Yes; in regard to the franchise that the Pongyis should be entitled to vote.

U Ba Pe: If we have adult suffrage they will be entitled to vote. His proposition is that Pongyis should be given the right to vote at the next elections. The first election will elect a new Government. Of course, if we have adult suffrage, they will have the right to vote: whether they will exercise it or not must be left to them.

Chairman: I was going to make the same remark.

U Ba Pe: They may not care to vote.

U Su: You mean their religion does not allow them; but in the practical state of affairs they are engaging in politics.

Miss May Oung: Some—not all.

Chairman: Of course, that I cannot say: but what do you infer from that; that they should be allowed to vote?

U Su: They should be allowed to vote.

Chairman: Although we are told they would not exercise that right.

U Su: That is still a question; that is still a problem.

Lord Winterton: You mean they should be allowed to vote as ordinary voters, not as Pongyis?

U Su: Yes, as ordinary voters, as human beings.

Mr. Campagnac: Does that mean they would have to pay the taxes?

Chairman: He is suggesting no qualification, you see; but is your point this, that you say the Pongyis do exercise a considerable amount of influence now in politics; it is better they should go to the polling-booths and do it openly.

U Su: Yes; they should be allowed to do it.

Chairman: Would you express a view about this question of woman suffrage? What are your views about that?

U Su: I am in favour of women suffrage also.

Chairman: Your view is the same as that expressed by Miss May Oung?

U Su: Yes, the same.

Chairman: Or is it different? I mean, do not be intimidated by women.

U Su: No, I am in favour of that.

Chairman: That is your view.

U Su: Yes.

U Ni: I quite agree with *U Su* that Pongyis should be allowed to exercise the right to vote, because, whether they are allowed to do so or not, they are actually exercising a good deal of influence over the voters behind the scenes. Moreover there is, of course, no prohibition whatsoever in the Buddhist religion which would prevent Pongyis exercising a right of this kind. They are not allowed to own what is called ordinary property—that is, property in the sense in which it has an ordinary market value. They may own religious property; but they are not allowed to own property which is not religious. That, however, should not stand in the way, for it is after all only a minor question. They are very highly educated people, they are usually intelligent; they spend their lives learning the Scriptures as well as other matters, so that they belong to a class of society which has a high standard of education; and the Buddhist philosophy, as everybody knows, gives broadmindedness and power of thought. I think, therefore, there is every reason for allowing them to exercise that right.

As for the pleasant speech of Miss May Oung with regard to the rights exercised by women, I have no objection whatever to what she proposes. As a matter of fact, in the nature of things, it is high time that women were put on an equal basis with men; and as for the particular clause which she mentioned, about women having equal rights with men—

Miss May Oung: That men and women shall have equal rights.

U Ni: Yes, that men and women shall have equal rights. I do not know how far that will go, but as far as we are concerned, so long as the woman does not pledge the credit of the man, so as not to leave anything for him, I have not very much to say about it.

Chairman: That is a very interesting point. It is not quite on the purely franchise question, but I agree it is very important indeed.

U Ni: It certainly does not concern the particular question of the franchise, but Miss May Oung happened to mention this point, and, personally, I should not mind having a clause in the Constitution at some suitable place to make this provision generally, to the effect that men and women should have equal rights. I do not know all the implications which may flow from it, but on the face of it there is nothing very objectionable about it.

With regard to the franchise, My Lord, I do not know whether we ought to discuss whether people coming into the country from outside should be allowed to vote, and if so, how they should vote and after how long a period of residence. I do not know, as I say, whether it is necessary to discuss that point here, and if it is not necessary to

discuss it I should like to avoid discussing it at the moment. On the whole, my views are on the same lines as those which my friend U Ba Pe has just stated to the Conference. I understand he said the right to vote is only to be given to those who are citizens of Burma. In that case, as I think Mr. Wardlaw-Milne remarked, the question as to who is a citizen of Burma becomes somewhat material. If we can avoid going into that at present I should be glad. If the Conference thinks that this point ought to be thrashed out I should, in that case, participate in the discussion, but if it is possible to avoid going into that detail at the moment I would like to avoid it. There is one point on which I should like to touch, because it directly concerns the question, and that is the present basis of the franchise, the capitation and tha-thameda taxes. Several speakers have already mentioned that there is a popular demand for the abolition of these taxes. I can only say that if those of my friends from the minority groups who have taken up this point propose to take it up in the election they will get such a number of votes as they will make sure of their election.

Chairman: I think it is premature to discuss your election programme, is it not? I would like to ask how many votes each person should have. Would you give women more votes than men.

U Ni: Each person one vote. Each individual elector would have only one vote.

Chairman: Only one.

U Maung Gye: We do not know yet whether we are going to have special constituencies. If we are to have them, then the question would arise whether a voter could vote in a general constituency as well as in a special constituency, and should be allowed to exercise the vote in both. Perhaps a discussion on that question had better be put off until we know whether we are going to have special constituencies.

Mr. Cowasjee: That point is answered by the existing rules as regards Indians for instance

U Maung Gye: But we may have new rules.

Mr. Cowasjee: As regards Indians you will find in the Burma Electoral Rules it says:—

“ No Indian shall be qualified as an elector for any of the following general urban constituencies namely, Akyab, Bassein, Mandalay, Moulmein and Rangoon.”

The Rules also lay down that where you have a special constituency a person qualified for that constituency is not entitled to enter the general constituency and stand as a candidate.

U Ba Pe: You are talking about communal constituencies. We are talking about special constituencies.

Mr. Cowasjee: A point I desire to raise is a question which affects the Indian community alone and it is dealt with in the existing rules under the heading of “ Qualification of Electors.” An Indian is there defined as follows:—

“ ‘ An Indian ’ means any person of Indian descent in the male line, being a British subject and resident in British India, who either was born in or has a domicile in British India, excluding Burma, or in any State in India, excluding the States in

Karenni, or whose father, or grandfather was so born or has or had, up to the date of the birth of the person in question, or of the father of the person in question, as the case may be, such a domicile."

When the rule was settled its absurdity evidently had not been noticed because as this rule provides an Indian born in the country or whose father or grandfather was born in the country is not entitled to stand as an Indian in these special constituencies provided for Indians. I submit that this rule is objectionable, and I would suggest that the definition might remain as it is but these words "excluding Burma" be omitted. The rule would then read:—

" 'An Indian' means any person of Indian descent in the male line, being a British subject and resident in British India."

Burma undoubtedly is included in "British India," but if Burma is to be separated from India, then I suggest the rule should read "in British India, including Burma."

According to the statement submitted to me last night, the number of Indians born in Burma is 371,905. Perhaps a very large number of these—I cannot give the exact figure—are people born in Burma whose father and grandfather were also born there. One of the arguments which we have heard advanced in this Conference is that the Indian who is mostly interested in Burma is the domiciled Indian. If this existing rule is strictly construed it will eliminate a large number of Indians who have made Burma their home from standing as candidates or exercising the franchise as voters. This is a point which affects the Indian community, and we are anxious that the definition should be rectified at the earliest possible moment by the alteration that I have suggested.

U Aung Thin: I think the suggestion made by Mr. Cowasjee for increasing the Indian section in Burma is rather objectionable. It would increase the Indian element. My submission is that the object in the rule he has quoted is very clear. It is very desirable to keep pure Indians apart from Indo-Burmans, and that division is really called for in the future. I would submit to Your Lordship that such a division should be made, and that proportional representation may be given to that group of Indo-Burmans. If thought is given to this matter, that community, generally termed the Indo-Burmans, may play a very important part in the interests of the country.

Sra Shwe Ba: So far as the Karens are concerned, they are willing that women should have equal rights with men. Certainly I have stated in the general discussion that our women are not inferior to men, and therefore, I think they should have equal rights. I must also state that some of them would not be very keen on this at first, and in the first instance I would give the Karen women the option; I would not compel them.

Chairman: Not compel them to vote?

Sra Shwe Ba: That it should not be compulsory to them.

Chairman: I do not think it is suggested it should be compulsory.

Miss May Oung: No.

U Ba Pe: It is for them to exercise that right.

Lord Lothian: Do you mean to say the Karen women should not be put on the register without their consent, or not vote?

Sra Shwe Ba: No, they would like to be put on the register, but after being on the register some of them will not exercise the vote.

Sir O. de Glanville: My Lord, when I opened this discussion this morning I merely threw out my suggestions hoping there would be discussion, and I think we have had a most interesting and valuable discussion on this question. We have had the view very fully expressed that women ought to be given equal rights with men; but you are up against this practical difficulty at the moment, and I have not really heard many suggestions for the solution of it. That is, that if we try to alter the franchise now and ask Parliament to alter it, we must put before Parliament facts which will justify Parliament in making the alteration. A suggestion has been thrown out—and it is one with which I am in entire agreement—that we should for the present election, the coming election, keep as far as we can to the present electorate. It would then be for the new Council or Parliament, call it what you will, to give way to the popular desire, whilst appointing a franchise committee and at the earliest possible date having elections on the extended franchise. To make the enquiries and get the electoral roll into order will take at least two or three years, and I seriously appeal to Miss May Oung and brother members to say whether they are prepared to delay the introduction of the Reforms on this point. If we agree to go on with the present electorate, I do not think it is outside the bounds of possibility that we should get our new Reforms in 1933; but if it is insisted on that we should settle all these other points first, it will be two or three years longer, and I do not think that will appeal to popular opinion in Burma. I believe in order to obtain peace and quietness in Burma it is absolutely necessary, when we have agreed on a Constitution, to bring it into force as quickly as possible.

U Ba Pe: My Lord, I do not quite follow my friend Sir Oscar. I really do not know what facts Parliament will want to know in this matter. He does not mention any of these matters that Parliament will want to know. But the other point that there would be delay if adult suffrage were introduced into Burma is also not convincing in this respect, because every year every village has to compile a roll for the capitation tax; that is, for all adult unmarried males as well as for married males. The roll is there every year for the purpose of collecting the capitation tax. In Upper Burma the same thing happens for the thathameda tax; so that it is almost complete; a little addition should not take much time. The married male is known there and his wife is known in the village also. There is no special difficulty that I can think of. However, if that information is required by Parliament sureiy, if we know all the points, we can have a franchise sub-committee here to go into the matter and place before you the facts and figures which are required. I do not see why there should be delay on account of widening the franchise at all.

Lord Winterton: Personally, I am not prepared to go beyond the lines which were originally laid down by Sir Oscar de Glanville in his speech. when he opened the discussion, and which were supported by Mr. Harper. I think, as Sir Oscar said in his second speech, that it would delay the proceedings. Parliament, in my view, would be very unwilling to grant a new Constitution on a different franchise

from the present one, on the ground that the time had not yet come for the franchise to be altered, and that experience should be gained of the working of the existing franchise under the new Constitution. Therefore, whatever the Conference as a whole may decide, I shall ask that it may be made clear in the Report—I do not think a minute of dissent is the correct expression here—so that it may be made known to the public and to Parliament that I am not prepared to go beyond this; that the existing franchise should be continued, and that after the expiry of a certain number of years it should be open to the new Legislature, in conjunction with the Government, to alter the franchise or to enquire into it.

I wish to make it clear that I am by no means unfriendly to an eventual extension of the franchise or to an alteration of the basis on which the franchise is given, but I am definitely opposed to any alteration of it at the moment, and I am in favour of a statutory limit of time before the expiry of which no alteration may be made. I am not necessarily bound to the number of years recommended in the Report of the Simon Commission, but I should prefer to see that limit.

Miss May Oung: Do you not think this is the time, when we are preparing a new Constitution, that such unfairness towards women should be rectified? I do not think the new reforms could be ushered into Burma on this present basis of the franchise which I have definitely stated is most unfair to us. We cannot accept a Government which is returned by only 1.9 per cent. of the whole population of the women voters. Do you not think that now, when we are discussing a new Constitution, we should also discuss rectifying such unfairness? Surely this is the time to do so. Is it not possible to appoint a franchise committee to go into these matters at once? Surely it will have to be constituted for other purposes, such as the distribution of seats, and so on, and I do not see why the request of the women of Burma should be put off at this Conference.

Major Graham Pole: I should like to support what Miss May Oung has said. I think we should deal with the question now, when we are going into the new constitution. Lord Winterton has said that Parliament would be very unwilling to grant a new constitution.

Lord Winterton: Not a new constitution, but a constitution on a new franchise.

Major Graham Pole: On a new franchise, yes. With great respect I must say I differ from that, because I think that is exactly one of the things that Parliament has called this Round Table Conference to consider. There may be some practical difficulties, but I think U Ba Pe has met very well some of the points raised by Sir Oscar de Glanville. I think there is no logic in excluding women or in excluding unmarried men. They, at any rate, are on exactly the same basis as married men and can qualify for the vote by getting married. I think there is no point in excluding them. The most important point I think is the one made by U Ba Pe that in bringing in this constitution it is very necessary and pre-eminently desirable to carry the people with you. If we frame a constitution that is not going to carry the assent of the great majority of the people in Burma then I think we are failing in our duty as a Conference. What we must do is to try to get some kind of constitution that will carry a large measure of assent and, if at the very beginning we propose to continue the

same old franchise which has met a great amount of opposition in Burma, then, although I cannot speak definitely for my colleague, Mr. Hall, I think he will agree with me in the opinion, even if it means some delay, we should try to get some more logical franchise than at present.

Lord Winterlon: As Major Graham Pole has referred to me, may I say a word about my own position? I always listen to him with great respect and he is fully entitled to his view, but as far as I am concerned I am definitely opposed to any extension of the franchise and I shall do my utmost in Parliament or outside to prevent any such extension. If the Government brings in any proposal for an extension I shall oppose it.

Mr. Harper: My position is that I do not feel that we have the information before us to enable us to say definitely that there should be a change in the franchise. All the information I have is contained in such papers as the Memoranda of the Government of Burma to the Statutory Commission and the latter's Report. This information I think points to the fact that there would be considerable practical difficulties to be overcome and I feel that a time when we are making enormous changes in the constitution is not the time to add difficulties which need not be allowed to arise at the present time. The Memorandum of the Government of Burma also gives the impression that there is not any general demand for adult suffrage on the part of the people of Burma.

U Ni: Who says so?

Mr. Harper: This Memorandum says "the mass of the population takes no general interest in the proceedings of the Council." We Europeans are not in the least concerned to stand in the way of adult suffrage if there is a real demand for it, provided, of course, that it is practicable, but what I feel is that we really have not the information on which to ask the Conference to take a decision.

U Ba Pe: May I ask Mr. Harper one question? He said there was no demand by the general public for adult suffrage.

Mr. Harper: I do not say there is no demand. All I say is that the Memorandum which gives the only information I have available suggests that there is no indication that there is such a demand.

U Ba Pe: The question I want to ask is whether Mr. Harper keeps himself in touch with the feelings of the people by reading the vernacular press.

Mr. Harper: The same memorandum refers to the vernacular press: "The proceedings of the Council are reported in the English newspapers. . . . but they are not given much prominence in the vernacular press."

U Ba Pe: That is wrong.

Mr. Harper: . . . "Moreover the circulation of the vernacular newspapers is small and in no case exceeds four thousand copies."

U Ba Pe: That is wrong. I am a journalist and I should like to say that that is not correct and that it leads to all sorts of misunderstandings.

Take the circulation of my own newspaper in the vernacular. It amounts to 12,000 copies every day. Then there is another point. The proceedings of the Burma Legislative Council are said to be reported in the English press only: that is not so. A résumé only is published, whereas in the Burmese papers the full speeches are reproduced.

Chairman: You told us that there is a widespread desire in the press for a wide extension of the franchise. Has that found expression in resolutions and so on in the Burmese Council?

U Ba Pe: We have had to go through this business stage by stage. The first thing to do was to remove the sex disqualification, and on three occasions we were opposed tooth and nail by the Government and by the parties supporting the Government, led by Sir Oscar de Glanville.

Sir O. de Glanville: I dispute that. The question which came before the Council was whether women should have seats on the Council. We never discussed the question of female suffrage.

U Ba Pe: The question of sex disqualification was discussed on three occasions, and the removal of such disqualification was met by the strong opposition of the Government, supported by the Ministerial party. On the third attempt, the feeling in the Country in support of the removal of sex disqualification was so strong that the opponents had to give in, and we succeeded in removing the sex disqualification so that women are now entitled to sit in the Council. But for the intervention of this Conference, our next attempt would have been at adult suffrage. We know that that, also, would have been opposed by the Government. Still, public opinion has been very strong on this point, and is growing stronger and stronger. I should not be surprised if there is a resolution on the subject at the next meeting of the Council in February.

Chairman: Sometimes resolutions are moved and even carried although Governments do not like them. But, as a matter of fact, I understand that no resolution has been passed in favour of adult suffrage for men or women in the Burmese Legislative Council.

U Ba Pe: There has been no chance yet.

Chairman: It has not been done yet? I am only interested in it from the point of view of guidance.

U Ba Pe: That is true. We have not done it yet in the Council.

Miss May Oung: May I ask a question of Lord Winterton? Does he still say that this unfairness ought not to be removed even on the present basis?

Lord Winterton: I do not admit that there is any unfairness.

Miss May Oung: I have pointed out the figures.

Lord Winterton: I have heard a lot of things pointed out in this Conference which I have thought directly contrary to the facts, if I may respectfully say so. I could not agree to anything beyond what I have already indicated, that is to say, no change for the new Legislature or the new Government, but the matter may be taken up at some future time.

Chairman: When the suggestion was made by U Ba Pe of setting up a sub-Committee on the franchise, I take it he did not mean a sub-Committee of this Conference?

U Ba Pe: I did mean a sub-Committee of this Conference. Some of the speakers on the other side wanted to have certain information, and it would be quite possible for a small sub-Committee to get that information even now.

Chairman: A small sub Committee could not possibly deal with the question of redistribution of constituencies. I do not know about the extra information—it is not exactly a question of information. You simply say that in your view you think the franchise should embrace adult men and women, and that this should be done before the Constitution is set up, and before an election takes place. In a way that is not a question for information. You have expressed your view, have you not?

U Ba Pe: No, not only that, because Lord Winterton and Mr. Harper or some one on that side merely stated that Parliament would not like it, for want of information. I want to know what particular information Parliament will require to pass this proposition.

Mr. Harper: One piece of information I should like is whether it is a practicable proposition.

U Ba Pe: That is a matter of opinion.

Chairman: You have been rather concentrative, have you not, U Ba Pe, on the statement of the general case? Have you anything more to say on the practical problems which are involved in actually carrying out your proposals?

U Ba Pe: In what direction, My Lord?

Chairman: Well, I mean in what the problem would involve. It involves, of course, an estimate of the number of voters. It involves the question of the settlement of constituencies and area of constituencies. It involves the decision, we will say as to the number of polling stations, the expense of the polling stations, and the officials who will run the polling stations. I will not go into the whole enumeration, but there are a great many matters which will obviously have to be considered, are there not?

U Ba Pe: It all depends in the first place on the number of seats you are to provide. In the first place we must know the number of seats. We have suggested 200, and others have suggested 150, and so on. We have to determine the number of constituencies in the first place.

Chairman: Well we have not reached agreement, I admit, on the subject, but we have arrived at some kind of approximate figure for the number of constituencies. I do not know that here we can do much more than that.

U Ba Pe: If you want approximate figures only, of course, you can get them easily. It is not so difficult as one imagines because we have the census figure. We can easily work out the adult population over 21 years of age, then you have a rough idea of the total number of people who will be enfranchised.

(200)

Lord Mersey: My Lord, if I may state the impression that this discussion has made upon my mind, it is this, that if we are going to embark upon setting out a detailed redistribution of seats, alteration of the franchise, the provision of new polling-booths, abolition of the capitation tax, and the many things that have been pointed out, we are going to be here until the Greek Kalends; we shall be here for any length of time. Certainly in this country this class of measure is always enquired into on the spot; and, after all, we have had a great deal of experience of Parliamentary Government in this country. It is always enquired into by a special committee or commission, an *ad hoc* commission which is set up; and when its findings, which take a long time have been arrived at, then the necessary legislation is passed. If the Delegates upon that side really wish to have that done first, of course it will have to be done in Burma; it cannot be done here. It is going to defer the granting of this Constitution for a very considerable time. I should have thought they would have preferred to get their constitution, to get something workable on the present basis; and we could give an expression of general opinion possibly as to what we thought were the lines for redistribution and extension of the franchise. When they had become settled, they could then set up the necessary committee. They probably would not want to do it at once, because they would be so occupied in the first Parliament or two, I should think, in looking after other things that they would have their hands full. I should have thought it better to take what you can get now and improve it yourselves on the spot later on, than defer the whole thing for an undefined period of time. I mean there are real practical difficulties about getting that done here and now.

U Ni: Cannot it be done in this way, My Lord. Supposing we proceed on the basis that all these things can be done, but if they cannot be done in time then we proceed on the basis of the previous franchise?

Lord Winterton: Yes, the existing franchise.

U Ni: That is what Earl Winterton stated this morning.

Lord Winterton: Yes.

U Ni: We proceed on the basis that all these things as suggested by us now should be done, but make this suggestion in case it cannot be carried out owing to difficulties. I do not know whether I have expressed myself clearly.

Chairman: Yes, I think you have expressed yourself quite clearly. I do not know whether anyone wishes to add anything.

Lord Winterton: The last speaker put his point perfectly clearly, but I do not think it quite meets the position that I take up. I am not adverse from the idea—indeed, I think in any case it will be necessary—that a committee of some sort should be set up in Burma. I think Sir Oscar de Glanville—we have been more or less associated on this matter, and I should like to hear his view—will agree that sooner or later, and probably the sooner the better, a committee will have to be set up in Burma to enquire into the whole question of the franchise. My points are, however, that that must be done after the new Constitution has come into operation on the existing

franchise, and I am not prepared to bind myself to support any of the particular proposals which have been put forward. The Conference can do so, but I should not like my name to be associated with any of these proposals, because I do not think the question ought to be prejudged. I think the committee or other body which is to be set up should have a perfectly free hand to consider all these points, and no doubt it would consider them sympathetically, and especially the point put so eloquently, if I may say so, by Miss May Oung with regard to the further enfranchisement of women. As I say, however, I should not like my name to be associated with any proposals which amounted, in effect, to suggesting terms of reference for such a committee. Any Government which knew its business would make the terms of reference of such a committee of so wide a character as to include all these things.

U Ba Pe: I think that is different from what U Ni said. U Ni said " We will accept the principle of adult suffrage, but for the first election, in order not to delay the reforms, we will use the present franchise." I think that is correct.

U Ni: Yes.

U Ba Pe: Lord Winterton's idea is to have no commitment to any principle unless the matter is first enquired into by a special committee.

Lord Winterton: I suggest the difficulty could be got over in this way. I see your point, and this is the suggestion I put forward. I think it follows the practice which was adopted at the Indian Round Table Conference. The chairman could say that certain people, whose names could be given, were in favour, but it could be added that A. B. C. and Lord Winterton were not prepared to go beyond the appointment of a committee, and did not wish to be regarded as supporting any particular terms of reference.

Chairman: For what it is worth, I think our general practice at the Indian Round Table Conference was not to mention names, or at any rate not as a rule, but to indicate that there was a strong feeling expressed in the Conference, and that there were other expressions of opinion on the other side, and so on, and you have to weigh that up as best you can.

I do not think we can carry this discussion very much further now. There has been, of course, a good deal of variety of view.

Lord Winterton: May I ask one question on that? I think my point could be expressed by saying that some, or the majority, were in favour, and " Others, again, said " and so on.

Chairman: I do not think there is any difficulty about that at all, because I can easily do that in the Report. I was merely suggesting that as a rule names were not always mentioned; that is all I meant. There has been a good deal of difference of opinion, of course. I think everybody seems to be under the impression that some extension of the franchise is important and indeed necessary, but there are differences of opinion even over that, I think. We have on the one side the idea that there should be immediately a complete extension of the franchise to the basis of manhood and womanhood suffrage—

adult suffrage to men and women over the age of 21. There is a further difference of opinion, at any rate as to the machinery by which the franchise should be developed. On the one side strong views have been expressed that this could be done without any great difficulty before the new constitution is set up. On the other side there have been equally strong views expressed, that, first of all, it is not very practicable, and further that it would unduly delay the setting up of the new constitution. Then, again, there is a third difference of opinion expressed. That was, that the new constitution would not have a favourable acceptance in Burma unless the first election under that new constitution was based on this adult suffrage. As against that, there has been the view expressed—rather more strongly on my right, think—that it would be unwise to take the first election on the basis of the new franchise even if it were practicable, because there would be so much to do, so many changes to make in so many complicated matters, that Parliament here would probably be rather unwilling to start the new constitution on the basis of such an extended franchise. I think the further view was expressed that possibly it should be the duty of the newly-constituted Government to deal with this matter at a later stage and that for a few years—an undefined number of years—no question of the alteration of the suffrage should arise. I think that sums up the varying views expressed and I must report accordingly. I will try to give full weight, of course, to any preponderance of opinion so far as I could gather it in certain directions. I shall also give full weight to the expression of opinion by Miss May Oung because she has the great advantage of being the only woman here, and therefore she can tell us what she likes.

Miss May Oung: There is one point I would like to make clear and that is, that whatever basis of franchise is adopted, we do insist that it should be equal.

Chairman: I certainly will add that anyhow to what I have just indicated—that you have laid great stress, not so much on what the franchise should be, but that there should be no distinction between the sexes.

Miss May Oung: We want both, but especially this one, that there should be no distinction.

Chairman: That is what you feel most strongly about.

Miss May Oung: Yes.

(The Committee adjourned at 4 p.m.)

**Proceedings of the Seventh Meeting of the Committee of the
Whole Conference held on Tuesday, the 15th December,
1931, at 11-15 a.m.**

HEAD 5.

RELATIONS BETWEEN THE TWO HOUSES.

The following points for discussion in connection with this Head were drafted by the Chairman:—

- (i) *Names of the Houses.*
- (ii) *Solution of Deadlocks between the two Houses.*
- (iii) *The Position of Ministers.*
- (iv) *Disqualification from membership of the Legislature.*
- (v) *Membership of both Houses.*

U Ba Pe: I have already indicated my views in the discussion on the Second Chamber, but I take this opportunity of making them absolutely clear. What we really want in this matter is that there shall be two sets of Bills, one relating to finance, and the other to non-financial matters, and that, so far as the Finance Bills are concerned, the initiative shall be in the Lower House, and the power of the Lower House shall be final. In the case of ordinary Bills the power to initiate shall be given to both Houses. Either House may have power to initiate a Bill. A Bill initiated in the Upper House will have to be sent down to the Lower House, which can amend, accept, or reject. If amended, the Bill will become a Bill initiated by the Lower House. If rejected, the Upper House cannot bring the Bill in again during the same session, but the Lower House, on its own motion, can bring it in as its own Bill. In the case of a Bill initiated in the Lower House, and sent to the Upper House, the latter would have the same right to amend, accept, or reject. If it amends the Bill, and sends it down to the Lower House, the Lower House can accept or can refer it to a joint session of both Houses. In the case of a Bill initiated in the Lower House and rejected in the Upper House, the same procedure—a joint session of both Houses—may be followed. The power to call a joint session of both Houses should rest with the Lower House. At the joint session the Bill should be passed or amended by a majority of votes of the members present.

Chairman: You mean a bare majority?

U Ba Pe: A bare majority would do.

Chairman: A majority of one? I am taking an extreme case.

U Ba Pe: A majority of one. I do not want a percentage majority.

Lord Mersey: Who would preside over the joint sessions?

U Ba Pe: The Speaker of the Lower House. In the case of money Bills the Upper House should have no power to detain beyond 21 days, but in the case of the other Bills, they should be dealt with within six months of the date on which they were passed by the Lower House.

Chairman: Who is to decide what are and what are not money Bills?

U Ba Pe: I would follow the precedent set by the Irish Free State Act. Article 35 of the Irish Free State Act leaves it to the Speaker of the Lower House to decide whether a Bill is, or is not, a money Bill.

Chairman: The Irish Free State Constitution is rather your " Bible " in these matters, is it not?

U Ba Pe: No, we do not follow the Irish Free State Constitution on many points. We take only those which we consider can be properly applied to the Constitution of Burma. Only in those matters which we consider applicable to the conditions in Burma do we follow it.

Chairman: I just want to ask this about the Upper House. The Bills are introduced in the Upper House; and if they are rejected in the Lower House, that finishes them does it?

U Ba Pe: For the session.

Chairman: I mean there is no power in the Government. I will just take a case. It is very convenient to be able to introduce Bills into either House. Very often, with Finance and so on, the Lower House is rather congested. Then the Government introduces a Bill in the Upper House. If that Bill gets rather damaged or injured, or too much amended, or even thrown out in the Lower House, the Government would have no power then to call a joint session, would they according to your view?

U Ba Pe: The Lower House should have the right either to accept, amend, or reject a Bill initiated in the Upper House. If amended, it should become a Bill of the Lower House and go back to the Upper House which could accept it or reject it.

Chairman: Suppose it is rejected in the Lower House?

U Ba Pe: If the Lower House rejected a Bill, then the Upper House would have no right to initiate the Bill again during the session; but the Lower House or the Government on its own motion could bring it in again.

Chairman: Yes; but if there is a dispute between the two Houses on a Bill originating in the Upper House, you do not want to give the Government of the day, or the Governor, the power of calling a joint session in order to settle that dispute. Do I understand you aright?

U Ba Pe: No, a joint session could be called on the requisition of both Houses or of either House.

Chairman: On the requisition of either House?

U Ba Pe: Yes.

Chairman: I am sorry I misunderstood you; I thought you said it could not be called on the requisition of the Upper House.

U Ba Pe: No, either House.

Chairman: Then what exactly is your procedure in that way? When you say the House does it, do you mean that a resolution is moved either by the Government or some private member in favour of having a joint session in both Houses; what is the procedure?

U Ba Pe: In the case of the Upper House one member on behalf of the Government or on behalf of a party there could move it, and if accepted by that House, then the joint session should be called.

Chairman: But would you confine the right to the Government of putting down a motion for a joint session?

U Ba Pe: No; the Government or a private member could do it.

Lord Lothian: I want to ask U Ba Pe a question. You suggest that the maximum period of delay should be six months?

U Ba Pe: Yes.

Lord Lothian: That is to say, if the two Houses do not agree, there is no joint session for six months, but at the end of six months there can be a joint session on the initiative of either House; that is your proposal?

U Ba Pe: Yes.

Lord Lothian: Then when you have a joint session will it be possible for that joint Session to amend the Bill?

U Ba Pe: Yes.

Lord Lothian: It can amend the Bill as well as reject it, or accept it?

U Ba Pe: Yes, quite.

Sir O. de Glanville: May I ask a question. I understood U Ba Pe to say that in Finance, the Upper House was to have no say; then he went on to speak of certain cases dealing with Finance and stated that the Upper House should not keep the Bill more than 21 days. I am not quite following the position. Are there some cases in which the Upper House would interfere in Finance, and in those cases are they to keep the Bill 21 days? Those two propositions are not consistent, as I understood it.

U Ba Pe: Sir Oscar does not follow it. In the case of a Money Bill the Lower House would in the first place initiate it, and it would go up to the Upper House. The Upper House would have the right to accept, amend, or reject, but the final authority would rest, as far as a Money Bill is concerned, with the Lower House.

The Upper House would be able to amend it and it would then go to the Lower House and the Lower House could either accept or reject the amendment, or adhere to, or reverse its decision, but the Upper House should have no right to detain a Bill more than 21 days as far as Money Bills are concerned.

Lord Lothian: Under the Parliament Act the Lower House cannot overrule, so to speak, the Upper House for a period of broadly two years in this country. In South Africa a joint session only comes into operation during the next session of Parliament. It cannot be called in the same session. May it not be that, if you had so short a period as six months, you would in effect be nullifying the delaying power, the steadying power of the Upper House? The Upper House is the smaller House and the Lower House would be able to over-ride it automatically in six months. The object of having an Upper House is largely to provide a period of delay to enable public opinion to be consolidated in regard to any particular proposal. Therefore, is not six months rather too short a period?

U Ba Pe: In Burma I do not know that six months is too short a period.

Lord Lothian: You can think as quickly as that.

U Ni: There is one question I should like to touch upon and that is as regards the majority which should be obtained. My friend said that a bare majority would do, but I think we ought to have something more than that, especially because only very highly debatable questions will require a joint sitting of the two Houses, and it is in those cases that we should be very careful of allowing things to be done or undone. Supposing our Lower House has say 180 members and the Upper House about 60. Then 121 will be just enough to nullify any proposal whether good or bad. For the Lower House to get that result only about 61 members from the Lower House would be required to support the proposal. That 61 would be only just about one-third of the Lower House if it has a membership, say of 180. After considering this point, I would like to put before the Conference a proposal that the majority in the number of members of the Lower House should be at least two-thirds. In Australia I think they require three-fourths. At any rate, in some countries as many as three-fourths are required. I think that three-fourths is too high a proportion and so I would suggest that the majority should be at least two-thirds as regards the Lower House.

Chairman: Do you mean that if both Houses are sitting together the majority necessary for passing some proposal should be two-thirds?

U Ni: At least a two-thirds majority in the Lower House.

Chairman: But you cannot take the Lower House separately when you have a joint sitting.

U Ni: No, but that is the basis on which I would work. I would suggest two-thirds of the Lower House. That means one hundred and twenty plus sixty, so that there would be one hundred and eighty out of two hundred and forty, that means two-thirds of both Houses.

Chairman: Do you want two-thirds of the members of both Houses or two-thirds of the actual number of the members of both Houses sitting together?

U Ni: It must be two-thirds of the actual number of members of both Houses sitting jointly who are present.

Chairman: Who are present?

U Ni: Who are present. I think that, especially in highly important matters, which are the matters which would require a joint sitting, we ought to make sure that nothing can be done wrong.

A certain percentage majority should be required to ensure that nothing will be passed into law without due, anxious and serious consideration, and I think if we can include a provision in the Act that a certain percentage majority will be required, something more than a bare majority, that will be a good thing.

Chairman: That is an important point. Perhaps we might have some more opinions on that question, namely, whether, when both Houses are sitting together, there should be a bare majority or some percentage majority.

Mr. Haji: I should like to support the view of my friend U Ni, because it is quite clear that the many purposes for which we have suggested joint sessions of the two Houses would not be met, and might in some cases be frustrated, if a bare majority were provided for. As U Ni has stated, there are precedents in other Constitutions and rightly, that what is passed by a joint session should not represent merely the mind of the Legislature, but should carry with it such a strong vote that if any grumblers are left in the country they will be forced to keep quiet by the weight of the majority by which the measure has been passed in the joint session.

In this connection I should like to refer, if I may, to one point mentioned by U Ba Pe, with reference to the delay which should be provided. I believe I stated in the earlier discussions, that in order to provide time for cool deliberation and to allow the matter to be examined in all its bearings, and to dissipate the excited atmosphere in which the first decision may have been taken, it is necessary that as long a time as is considered reasonable—and I do not think six months is adequate—should be allowed to elapse. The maximum of two years has, I believe, been suggested, and reference has also been made to the next session of the same House, which it was thought, under Burmese conditions, might provide a delay of anything from nine to twelve months. Instead of taking our cue from the months when the Burmese sessions are held, I should like to have it laid down that the delay should be eighteen months or two years. I think that should be stated specifically, irrespective of the number of sessions held in the year. To begin with you might have only two sessions, but two or three years later that procedure might be changed, and you cannot allow this important point to be based on shifting conditions. I should therefore like to see it laid down by this Conference that it approves of a delay of, say, eighteen months as a mean between the two figures which have been suggested.

Mr. Howison: I find myself in general agreement with what U Ni has said about the necessity of fixing some percentage majority in the case of a joint session. I feel that if the decision is to rest on a bare majority, the power of the Upper House as a revising chamber would be seriously weakened. It is not possible, I think, to make any suggestion as to what that percentage majority should be until one knows definitely the relative strength in numbers of the two Houses.

I am also in agreement with Mr. Haji that as long a time as is practicable, and for which any reasonable precedent can be found, should be laid down to elapse between the time a Bill is rejected by one House after being passed by the other and the calling of the joint session.

Sir O. de Glanville: I do not follow the argument that a bare majority would weaken the Upper House. It appears to me that in some cases it might strengthen the Upper House, while in others, it might weaken it. It depends really upon which House refused the measure. But there are cases in which the interests of the State itself might require a more speedy decision. Could we not compromise by giving power to the Governor in those cases in which he considered it necessary that a speedy decision should be reached to obtain it at an earlier period? Then I think there would be no objection in fixing six months. Supposing a measure came up bearing on Law and

Order which had been rejected by one House. It might be a very important measure which required passing into law at once, and it would be fatal to that end if it had to wait eighteen months before it could be brought up again.

Mr. Cowasjee: As to the question of a two-thirds majority or a bare majority, from the point of view of the minority communities the case would depend upon the further consideration of the strength of the minority community in the Lower House. If that strength is not effective, and if in the Upper House half the members are nominated by the Governor, then a two-thirds majority of members of the Upper House might, under certain circumstances, work very harshly towards the minority communities, assuming that the legislation is of such a nature as to affect their interests. As our strength in the Lower House is not adequate, then the majority community would have such strength that the nominated members of the Upper House would really count for nothing if we went upon the footing of a two-thirds majority.

As to whether the period should be six months, or one year, or two years, I am not in a position to give you any considered opinion. If we took a year or eighteen months instead of six months I think that ought to meet the requirements under that heading.

Lord Lothian: Do you think it is a good plan that the Speaker of the Lower House should have the sole power of certifying a Money Bill? It has caused a good deal of friction in this country. It gives the Speaker of one House some authority over the other, and lends itself to the charge that he extends financial provision to cover other things. I do not know whether anybody has any views on that subject from parliamentary experience.

U Ni: It is the only possible way.

Chairman: No, there are many ways.

Mr. Howison: I am not in favour of the Speaker of the Lower House having the decision in this matter. I think it should be left to the Governor to decide.

Mr. Isaac Foot: The difficulty would be in a comparison between the Speaker of the House and the Chairman of the Assembly in Burma. The Speaker in this country has got a very long tradition and a responsibility which might not be comparable with that of the Chairman of an Assembly that has had only a few years' experience. Of course I do not know to what extent the Chairman of an Assembly in Burma would take the independent position that the Speaker does in this country; he may be more of a partisan you see; there may not be the same tradition there that separates the Speaker here from partisanship. If partisanship enters more into the position of the Speaker of the Assembly there, there may not be the possibility of making the same comparison in order to answer Lord Lothian's question.

Mr. Haji: May I add one other point?

Chairman: Yes.

Mr. Haji: Namely, that the Speaker should, as far as possible, be above politics. To allow him this power may turn him into the instrument of one party or the other. That would seriously affect his position as a non-partisan person. But, to take up the position of Mr. Foot, either the Speaker is partisan or is not partisan. If he is

a partisan, he is the last person to be endowed with this authority. If he is not a partisan, it is not fair to force him to take sides with the predominant party in the Assembly. Therefore, whoever may be the appropriate authority to certify that a certain Bill ought to go before a joint session, I am sure the Speaker of the Lower House is not that person. As it is necessary in these cases that all possible points of view should be considered before the decision is arrived at, I feel inclined to support Mr. Howison's view. I think he said he would leave it to the Governor, and I think perhaps that will be the best solution of a position which sometimes might become very complicated. If we leave it to the Governor to decide about this joint session, I think we shall have the best results, and it will certainly not compromise the position of the Speaker.

Mr. Ohn Ghine: As a member of the Burma Legislative Council, may I say one word in reply to Mr. Foot? We have had several Presidents of the Council and only one of them has been a Burman. We do not always agree with the rulings from the Chair, but we have always accepted them, and I do not think there has ever been a question of the partiality of the Chair. I do not quite understand the objection which Mr. Haji has raised. It is true that the Speaker as a Member of the Council must belong to one Party or the other; but the moment he sits in the Presidential Chair he ceases to be a member of the Party in spirit or in act, and therefore I think he is quite a suitable person to exercise that right.

Mr. Cowasjee: My Lord, I do not make the slightest suggestion of partiality against the Speaker of the Burma Legislative Council. As a matter of fact I voted in support of his appointment. But that is not the point; the point is that a Speaker of the Burma Legislative Council must necessarily belong to one or other Political Party of the House. It is perfectly true that the moment he occupies the Chair as the Speaker of the House he should dissociate himself from his Political Party and should do his duty strictly and honestly in the sense in which a Speaker ought to discharge his duties. But if we were to throw this burden upon the Speaker it would put him in a very difficult and invidious position. If his ruling is in favour of the Political Party to which he belonged, there may be awkward suggestions made against him; and from that point of view I think it is eminently desirable that this important question as to whether a Bill is a Money Bill or not should be left entirely to the judgment of a person who is independent of all political parties and who is the head of the Province and represents the Crown in that Province. I agree with Mr. Howison that this responsibility should be entrusted to the Governor of the Province and to nobody else.

Sra Shwe Ba: On this question we wish to associate ourselves with the remarks that have fallen from Mr. Cowasjee. The fact remains, My Lord, that whoever is Speaker of the Burma Lower House he will have begun by being a Party man. The fact that he occupies the Presidential Chair will be due to his election to that seat of responsibility and honour by the House. He occupies the Chair for a fixed term, and on the expiry of that term he, so to speak, reverts to his old place. Therefore, I think, knowing human nature to be what it is, that in such an important matter the person to certify Money Bills should be the head of the Province who is responsible for the whole

Province. Therefore, I support Mr. Howison in the view that the Governor of the Province would be the best person to have the last word on this subject.

Lord Winterton: I should like also to associate myself with what Mr. Cowasjee has said, although, of course, I speak with less knowledge. My friend has referred to the position of the Speaker here. I agree with what he said in general, but I do not think it is really so much a question of the partiality of the Speaker for any particular political party. I feel sure that that would not arise in Burma or anywhere else. It is rather a question of the fact that his judgment may be, perhaps unconsciously, weighted in favour of the Lower House. It is a delicate question to mention, and perhaps some of the Burma Delegates may be amused at my doing so, but I can say, with perhaps less delicacy than my friends to the right and left of me, that, personally, I am not by any means sure that the provision which we have in our Constitution by which the Speaker has the right to certify Money Bills has always been carried out quite in accordance with the intention of the original framers of the Parliament Act. I am not making any suggestion of partiality against the Speaker, but I do think that some of the certificates which have been given in regard to Money Bills have rather strained the letter of the Parliament Act. I give that as an example of what has occurred in our own Constitution in this Country. If there was any suggestion in this country of a joint sitting of the House of Lords and the House of Commons I, for one, would suggest that the person who should preside over that joint sitting should be neither the Lord Chancellor nor the Speaker of the House of Commons, but some outside person should be brought in for the purpose. For these reasons I desire to associate myself with the views put forward by Mr. Cowasjee and others.

U Tharrawaddy Maung Maung: Lord Winterton has just said that there would be no question of partiality on the part of the Speaker so far as political parties are concerned, but he might be unduly influenced by the Lower House. I think myself that the ties of Party would have a much stronger influence on any person who had been a member of a particular Party. If he was not made partial by Party influences or Party ties then I do not think that his being President or the Speaker of one House would unduly influence him in its favour. I think that the Speaker of the Lower House ought to be Chairman of the joint sitting. Then comes the question, what about the majority? U Ba Pe has spoken about a bare majority. We really want to give power to the Lower House. We do not want to give too much power to the Upper House because of the irresponsibility of its composition. Its purpose is to have a steadying influence, and it will no doubt be composed of men of wide experience and broad views. When the two Houses disagree they must be given ample time to develop public opinion, so that I would prefer to have a little longer time than the six months suggested by U Ba Pe. During the interval they can seek to educate public opinion, and when the joint session is held, if their views are really sound, they will be able to convert a good many members of the Lower House and arrive at a decision which will be supported by the country.

U Ni: I attach a great deal of importance to the person with whom the power of certifying Money Bills will rest, and I want to draw the attention of the Conference to the fact that with that power there goes a great deal of responsibility. It is interesting to consider the definition of a Money Bill.

A Money Bill means a Bill which deals with the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public moneys; or the variation or repeal of any such charges; the supply, appropriation, receipt, custody or issue or audit of accounts of public money; the raising or guarantee of any loan or any repayment thereof; subordinate matters incidental to those subjects or to any of them, and so on. The question whether a Bill is of this description will have to be decided by the person who is going to certify it.

The members of the minority groups, as they are called, would appear to desire to place this power outside the Lower House; they would prefer to see it in the hands of the Governor. Personally, I should be the last person to wish a situation to arise in which the Governor would act against the wishes of the Lower House, and by placing this power in the hands of the Governor he might be called on unnecessarily to go against the wishes of the Lower House. If, on the other hand, the matter is left in the hands of the Speaker, who will be above Party, the whole thing will work very smoothly. The Lower House is really the responsible body for dealing with money matters, Finance Bills and so on, and, I think, the best person for certifying Money Bills will be the person chosen by the Lower House. The Speaker will not necessarily remain the same; he may be called to account whenever his decision needs any challenge. If he does anything wrong he will be called to account. As a matter of fact, there has been one instance already in our Legislature in Burma where the Speaker gave a decision which was resented by a certain member, and there was a set debate as to the correctness or otherwise of the decision given by the Speaker.

In the future, we cannot allow the Speaker to do anything he likes, and we shall have to call him to account. There might be a full dress debate as to the correctness or otherwise of his conduct. I am sure everyone on this side would agree that the power should be in the hands of the Speaker, who will never be tied down to his Party. As soon as the election is over, he is free from all Party obligations and ties. I can cite instances. Sir Oscar de Glanville has been the Speaker of the House, and we can easily ask him whether he was free from all Party obligations from the time he was elected. The same is true of the present Speaker. I, myself, am a Deputy Speaker, and whenever I am called upon to preside—in fact, I was actually called upon to preside over the meeting when the ruling given by the Chair was questioned—I put everything in the way of Party aside. It is the rule that, as soon as anyone is elected to the position of Speaker, he is free from party politics and is not supposed to do any electioneering.

Mr. Isaac Foot: Has he to contest his seat?

U Ni: He must come in by the ordinary method of election.

Lord Mersey: Do they put up a candidate against him?

U Ni: Yes, they do.

Sir O. de Glanville: I was returned unopposed. The present Speaker has not yet finished his term of office and nobody can say whether he will be opposed.

Mr. Cowasjee: When the present Speaker was appointed there was a rival candidate.

Mr. Hall: Have you a similar practice to what we have in this country? When a Speaker here has been elected to his position, the other political parties do not oppose him in his constituency.

U Ni: We are going to adopt that convention. During the election the Speaker ought to be given a seat without contest, as it has been his duty to abstain from electioneering or canvassing. The present Speaker has done so although his seat was contested once or twice.

Mr. Campagnac: I think that no one is questioning that the Speaker in Burma would endeavour to be as impartial as a Speaker in the House of Commons. But the point is this, the Speaker in Burma would necessarily lack the experience that the Speaker in the House of Commons would have, and it would be difficult for him with his limited experience and with little tradition behind him, really to decide whether a measure was a money one or not. Therefore, I think that, at any rate for some time to come, it should be left to the Governor to decide whether a particular Bill is a Money Bill or not. But in coming to that decision it would be well if it were laid down that the Governor should do so after consulting the Speakers of both Houses. That would enable the Speakers to put forward their opinions and get experience in these matters. In fulness of time it might be possible to allow a Speaker of the Lower House to decide whether a Bill was a Money Bill or not.

Lord Mersey: The suggestion Mr. Campagnac has made rather appeals to me. I was going to ask one question of *U Ba Pe*. I am not quite clear as to the personal position of the Speaker in the Council. Of course, as *U Ba Pe* knows, the Speaker here occupies a very dignified and important position. The moment he is elected to the Chair he is the unquestioned arbiter of what is done in the Lower House. I was a little frightened when *U Ni* spoke of bringing the Speaker to book. In this country the Speaker receives a very high salary. As soon as his term of office—usually about ten years—is ended, he is made a peer, unless he desires otherwise, and he is given a pension. That is to say, he is absolutely provided for, and I think it is 120 years or more in this country since the Speaker has ever accepted any place in the Government after being Speaker. I am not quite clear whether that is the case in Burma. Of course, a Speaker who is looking forward to a place in the Government after he leaves the Chair can obviously not be in quite as impartial a position as a Speaker who knows that his time is finished. That is one point.

I also agree rather with what Mr. Campagnac said about, I will not say the lack of knowledge perhaps, but the lack of confidence. I wonder if there is quite the same confidence and trust in the impartiality of a Speaker as yet in Burma as there would be in a country

where you have had a Speaker for 600 or 700 years. I mean there is a difference in time.

The other point I rather wished to put to U Ba Pe is: Has he considered tacking? You understand what the expression "tacking" means. That is the process of passing a Bill through the Lower House which is a Bill not dealing with finance, tacking on some little financial clause at the end of it and saying, "This is a Money Bill." It is an important point. I confess that it might be difficult for a Speaker of a Lower House to avoid all those pitfalls in a new Assembly; and a Committee of three such as Mr. Campagnac outlined—the Speakers of the two Houses with the Governor—might perhaps be safer, at any rate, to begin with.

Mr. Isaac Foot: My Lord, there is one further point. Of course, arising from the difficulty in our lack of knowledge of the actual working of the Reforms in Burma and the position of the Chairman there, there is this difference I think. I can quite understand that in Burma there may be appointed someone who has popularly the best claims to the post for the time being, who may consider that he is to be Chairman of the Assembly during his term, but who does not contemplate continuing, and who may generally occupy the position that would be taken here by the Chairman of a very important Assembly, but something very different from the position of the Speaker. The Speaker here in deciding upon these difficult and intricate constitutional questions and the question as to whether a Bill is a Money Bill, has of course the help of a very considerable staff. There is the Speaker's Counsel who is here, who from day-to-day advises him upon these matters; when there is a decision made by the Speaker as to whether a Bill is a Money Bill or the extent to which it is a Money Bill, we always know that it is not merely the opinion of Mr. Speaker himself, but it is that opinion fortified by the highest legal opinion that is obtainable. I expect the Speaker here would shrink from the responsibility if he had not that most capable advice constantly at his disposal. It would be a pity to burden the Burmese Legislature with that expense and that responsibility. It may be said that we are asking for something different in Burma from what we have here, but we have no Governor in this country as there will be in Burma. There is no one in this country who corresponds, constitutionally speaking, with the Governor in Burma. That is because under our constitutional monarchy the King stands outside these questions. We have in this country, no one who corresponds to the Governor in Burma who is a man taking a constant active part in Burmese life and affairs and its Parliamentary proceedings. I think that the arguments generally are in favour of the Governor having this responsibility because he would be in possession of the advantages and the advice which are enjoyed in this country by the Speaker of the House of Commons. I apprehend that probably the President of the Lower House in Burma would be appointed for the life of one Parliament and would not have those advantages at his disposal.

U Ba Pe: I will try to give the information which was asked for by Lord Mersey. When the Legislative Council was first set up, the President for the first two years was not elected by the Council. He was an official President appointed by the Governor. Perhaps I ought to say that he was non-official but he was not elected by the

Council. He was appointed by the Governor. Sir Oscar de Granville was the first President. Then after four years when the term of that Council had expired and there was a general election there was also an election of the Speaker, and the present Speaker, U Pu, was elected.

Lord Mersey: You had a different Speaker for each Parliament.

U Ba Pe: The man who was elected President is a Burman. The idea was that the Council was introduced into Burma with a view to the country having responsible government later on. Therefore, it was felt that the man to be elected Speaker must be a Burman. That was why a Burman was elected at the time. Whether he will be elected at the next election or not has to be seen of course. It is not the practice in our country not to oppose the person who is already Speaker of the House. It seems to me that some of the arguments to-day have been founded on too much distrust of what will happen if this power is entrusted to the President or Speaker of the House. That I think is mainly on the ground of lack of experience. I think it is that more than anything else. There is, however, this point of view to be considered. If you take away the right to exercise this power of determining whether a Bill is a Money Bill or not you cannot train the Speaker of the Lower House. If you place this power in the hands of the Governor, it will be the Governor who will be the man who will get the training and the experience, and not a man belonging to the country. The Governor does not hold a permanent position and whatever experience he gains would be lost to the country. The man who is Governor may not be a man who has had any political experience. He will be a man from the Services.

Mr. Isaac Foot: He will have assistance.

U Ba Pe: Yes, he may have assistance. He may say that he will have at his disposal the services of the legal officer, but if a Burman is Speaker he would have the same assistance provided for him. The Speaker, whoever he might be, when in doubt would apply to the Legal Adviser to the Government, who would advise him and in most cases he would follow the advice given him by the Legal Adviser. I think there are many advantages in keeping the power in the hands of the Speaker of the Lower House for he would then have experience. There is no question but that he will be above party politics. The present Speaker is paid a very high salary in Burma, and he is not allowed to do any other business; he has to devote the whole of his time and energies to the work of the Council.

Lord Mersey: What about afterwards?

U Ba Pe: That is a precedent which has yet to be established; there has been no opportunity yet. This is the first three years for which we have elected a Burman Speaker of the House. On the whole, I do not think there need be fear about entrusting this power to the Speaker of the Lower House.

Sir O. de Glanville: On that point, My Lord, I should like to correct one misunderstanding which I think exists on the part of U Ba Pe. The President of the Legislative Council of Burma has not the services of the Government Advocate at his disposal, nor the services of any other legal adviser except the Deputy Government Advocate, who

happens to be the Secretary of the Council. Of course, if the President of the Legislative Council desires to consult the Government Advocate unofficially and privately as a friend, or if he desires to consult any other legal adviser in that way, he may do so; but if he wants the official opinion of the Government Advocate he has to apply to the Government for the services of the Government Advocate, and so far as any other official legal opinion is concerned he has no funds with which to pay for it. I know that the President has on intricate points—not points of order, but important matters arising in the course of his duty—consulted the Government Advocate, but he consults him privately.

U Ba Pe: May I point out that I did not say that the President of the Burma Legislative Council has at his disposal the services of the Government Advocate; I said that he used to consult him privately. It is well to remember, moreover, that the Deputy Government Advocate and Legal Adviser to the Government of Burma is Secretary to the Council.

Lord Mersey: What about “tacking”?

U Ba Pe: I suppose it sometimes happens in this country, and it may happen in Burma also, but the possibility of its happening should not prevent us from taking really courageous action. These things if they happen often, will not be tolerated by the country, and I am sure the President of the day would not allow his reputation to be affected by allowing such tricks on the part of the Government of the day as the addition of small financial clauses to a Bill.

Chairman: At this point perhaps you will allow me to say one word. I do not, as you know, say a great deal as Chairman, but, having sat in both Houses in this country, I have had the experience which enables me to view the question from both sides. I only express my opinion, of course, for what it is worth.

There are two points which have been discussed, and I think that perhaps on one of them we might have a little more discussion, namely, the question of whether there should be a bare majority or a larger majority when there was a joint sitting of both Houses.

There is, in that connection, a point of view which I do not think has been alluded to at all in the course of the discussion, but which is very present to my mind, and it is this. If you are going to have a Second Chamber at all, you should give it some position of importance and should assign to it certain duties. If you are going to have a Second Chamber, do not have another machinery of government which practically makes it impossible for that Second Chamber—I am putting it rather broadly—to do anything at all, and which enables it to be so very easily overridden by the other House as to be ineffective.

You have to consider who you want to belong to that Second Chamber. I presume you want men of ability and character, but if you are going to have a Second Chamber which is very easily overridden in opinion by the other House, it may not be worth while belonging to it, and I should say you had much better not have a Second Chamber at all. If you have a Second Chamber very much hedged, cabined and confined, and made very weak, you are having only a camouflage Constitution; that is to say, you are pretending to

have two Chambers, and a Second Chamber which corrects and revises the first, when you really have only one Chamber. If you are going to have a weak Second Chamber, then in my judgment, for what it is worth, it is far better to have only one Chamber and to face the position frankly, because the whole responsibility is then thrown, obviously and plainly and in the view of all men, on that one Chamber, and it cannot shelter itself behind the fact that there is a Second Chamber. I permit myself that general observation on the question of the relations between the two Chambers.

The second point on which I want to say a word is with regard to the position of the Speaker. With the exception of the remarks of Lord Winterton, the discussion to my mind, if it has not gone on wrong lines, has missed the important point in the problem. We have heard a good deal about the Speaker being impartial and his rulings being received by the House. I am not saying for a moment that the Speaker will not be impartial or that his rulings will not be received in the Lower House. What I want to call attention to is the question whether in the other House those rulings of one who is not its officer, but is merely the chief officer of the other House, will be considered to have been governed, not indeed by party partiality, but by the necessary partiality which must affect a man's mind if he is president of a particular assembly and another assembly is concerned.

I mention this because I have had a good deal to do in this country with the question of reform in the House of Lords. One has always been drawn into difficulties, and to some extent beaten, not by any individual's unfairness, but by the fact that the corporate feeling of another House is strongly against ever giving it the power it possesses. That has been the difficulty of getting reform of the House of Lords which has been so strongly desired in the House of Lords itself. We are faced with a problem of the greatest difficulty. Everybody knows that finance enters more and more into all the conditions of life and business, and really, if you are to say that finance is not to be dealt with at all by one House, and if you are to give the complete power to the Chairman of the other House to say what is or is not finance, I think you do throw a most tremendous power—an unwise power in my opinion—into the hands of that Chairman. I will call him "Chairman" for the time being, preferring not to use the word "Speaker." Although everybody recognises the great position of the Speaker and his impartiality, yet there has been in certain sections in the Upper House a very strong feeling that their powers and responsibilities under the Parliament Act have been considerably diminished by the decisions, given, of course, in absolute good faith, of the Speaker of the Lower House.

When you are dealing with this question, it is much more than whether the Speaker or the Chairman is impartial in his own House. It is a question of whether, for the good working of the two Chambers, there is not only impartiality but an acceptance by the other Chamber of a complete feeling of impartiality. It is a question whether it is not better that this tremendous burden should not be thrown on to the shoulders of one man, advised or not by good authority. Various proposals have been made in this country. One was that if the Speaker of the House of Commons had the duty of certifying Bills anyhow he should be assisted by a Committee, consisting perhaps of two or three members of both Houses, who would advise and help him. There are all

kinds of variants of that kind, and it is not a necessity of the problem put up to us that the Speaker's partiality should be in question, but it is far bigger than that, it affects the position of the two Houses and the position which the Houses ought to take the State. It is a far bigger question than that; it affects the relations of the two Houses and the position which that second House ought to take in the State.

Pardon me for those short observations. I think we have discussed fairly fully the position of the Speaker, but I should have liked to have heard one or two more opinions about the question of a bare majority or a two-thirds majority, or whatever the majority might be, or something between a two-thirds majority and a bare majority in the case of these Bills. That again is an important point. I should have liked to have heard a few more opinions upon it. It may be my fault, but I was not quite clear whether U Ba Pe wanted to apply a much shorter machinery, in the case of Money Bills than he did in the case of ordinary Bills as regards the sitting of both Houses. There was a difference, but I was not quite clear what the difference was. He mentioned 21 days as the time within which it should come back. Did he mean that, if it did not come back within 21 days the Bill should be considered dead, and there should be a Conference called—or what was his meaning?

U Ba Pe: Take the case of the Budget passed by the Lower House; it goes up to the Upper House, if they detain it for ever, what will be the position of the country? They must return it within 21 days so that the decision can operate at once in the financial year.

Chairman: You would give them power to amend?

U Ba Pe: To amend; but the Lower House has the power to reject those amendments if they like.

Chairman: That is what I wanted to understand. As a matter of fact I think 21 days is very short to consider complicated matters. I will not dwell upon that. My own view would be that that is too short; but if it comes back amended, and then the Lower House rejects those amendments, we will say, then what happens?

U Ba Pe: That is final.

Chairman: There is no joint session?

U Ba Pe: No.

Chairman: Then what you mean is you do not give the Upper House the right to amend—that is not the right to amend in my view. All you would say to the Upper House is: "You have the power of making suggestions for amendments; that is all." Then if the Lower House does not take them, they are dead, but the Bill is alive. Am I right in interpreting you in that way?

U Ba Pe: Yes.

U Maung Gye: My Lord I find it rather difficult to follow the trend of the discussion. What U Ba Pe has said is that when a Bill is introduced into the Lower House, whether it is a Money Bill or not a Money Bill should be decided by the Speaker of that House. But I do not think he ever suggests that the decision of the Speaker of the Lower House shall be final and shall not be questioned by the Upper House.

Major Graham Pole: As to whether it is a Money Bill or not?

U Maung Gye: Yes. If there is any controversy on that point, if there is any difference of opinion between the Upper House and the Lower House, I suppose the question can be left to a Committee of Privileges, which may consist of say 3 members from the Lower House, 3 members from the Upper House, presided over by, say a senior judge of the High Court. I should under no circumstances agree to the Governor being dragged into this controversy, because we want the Governor to occupy the position of a constitutional Governor, and I want to place him above all controversy. I do not think the Governor should be saddled with a duty of examining and scrutinising all Bills which may be placed before either House. He will not have the time to do all that. As regards the question of how a deadlock between the two Houses should be settled if it ever arises, my view is that the Upper House should not have any overriding powers. It should act as a brake on any hasty legislation, but that is all. If a Bill which has been passed by the Lower House is either rejected or amended by the Upper House it is suggested that an interval of time might be allowed before a joint sitting is called for by either House. During that interval of time those who are in favour of the Bill and those who are against the Bill will try to organise public opinion in the country. If after the lapse of that interval the Bill is brought before a joint sitting of the two Houses I think the Bill should be decided by a bare majority of the members of the two Houses who are present at a joint sitting.

Lord Winterton: I have been wondering whether U Maung Gye and others who have been supporting him in the view he has taken would agree, if they are not in favour of the Governor presiding, to have some impartial authority, such for instance as a judge of the High Court, to preside over those deliberations.

Major Graham Pole: I think that is what he suggested.

U Maung Gye: Where there is a difference between the two Houses, but as a matter of routine I think that when a Bill is introduced it should be the Chairman of the Lower House who should decide in the first instance whether it is a Money Bill or not.

Lord Winterton: You are dealing with the narrower ambit of Money Bills, but I was speaking of the event of a dispute between the two Houses.

Mr. Haji: With regard to the suggestion that a judge of the High Court might be brought in to help to decide whether a Bill was a Money Bill or not, is it advisable, I wonder, to bring the judiciary into the political arena at all? I would like to keep them out and I think it is the constitutional thing to keep High Court judges out of politics altogether. Perhaps we might have some light on the subject if one of the British Delegates would be good enough to give us an idea of the composition of what was referred to as the Speaker's Council.

Lord Mersey: It is the Speaker's Counsel, not Council.

Mr. Haji: Oh, I see.

Chairman: He is merely a legal adviser.

Mr. Haji: That brings me to another point which was raised by U Ba Pe, namely, the question of the period of 21 days. With regard

to Money Bills a difficulty would arise if you specify a period of 21 days. I think he had only a Finance Bill in mind but any Bill at any time in the course of the session by having something tacked on to it might become a Money Bill. Suppose such a Bill came up for discussion, say 10 days before it was intended that the session should be adjourned. If the Upper House sent back this Bill and we had this period of 21 days then for at least 11 days the Lower House would be sitting with nothing to do. I mean, as matters stand now the programme may be filled up, and the Lower House may have to wait for at least twenty days. That is a point which should be borne in mind before finally accepting this period of 21 days

Sir O. de Glanville: On the suggestion that has been made that a judge of the High Court should be brought in, I should like to express the hope that a judge of the High Court will never be brought in.

Chairman: You do not want him to be brought in?

Sir O. de Glanville: I do not want him to be brought in; I think we should endeavour to keep the High Court totally apart from politics.

Major Graham Pole: With all deference, I do not think this proposal would have the effect of bringing a judge of the High Court into politics at all; it is simply asking him to decide a certain point. He will merely be presiding over a Committee in order to decide one point, and he will not be brought into a political discussion at all. The idea seems to me to be a reasonable one. Of course, every one, both here and in Burma, is entirely against judges as such having anything to do with politics in any way whatever, but it seems to me this has nothing whatever to do with politics; it is simply a decision on one point, and many points come before judges for decision which have some kind of bearing on politics.

Lord Mersey: I speak subject to correction, but I think exactly the same procedure is adopted in the United States of America, where I think constitutional points are referred to the Supreme Court.

Mr. Cowasjee: I think if the Statute provides that the matters in difference should be decided by the High Court, the judge of the High Court would then sit to decide as a judge of the High Court, as if the matter was referred to the High Court under some law just as he would sit to hear appeals or objections in the case of election petitions.

Sir O. de Glanville: I have not any objection, My Lord, to what is now suggested. What I should object to is having three members of the Upper House and three members of the Lower House presided over by a judge of the High Court, who would in such circumstances be in a position in which it is not right I think, to place a judge of the High Court. He would have to speak on these subjects, and if he is to be in this suggested Committee he might have to vote. That is a very different thing from referring the point in dispute to a judge or to a committee of judges.

Mr. Cowasjee: I agree, My Lord.

Chairman: There are one or two other points that I should like to place before the Committee and on which I should like a little more guidance from the Committee. One of them is the question of the calling of the joint session. I am not quite clear how, in the opinion

of the Delegates, that should be done. I think we were told that a member of the Government in either House could move that a joint session be held, or that a private member in either House could do so. I am not quite clear, again, as to what would happen if there was a difference of opinion between the two Houses; for instance, if the Upper Chamber wanted a joint session and the Lower Chamber did not. What would happen in that case? I presume there would be no joint session, and it would require a joint resolution of both Houses if a joint session was to be held.

U Ba I'e: A resolution passed by either House for a joint session should be the final deciding factor.

Chairman: But what would happen if one House passed a resolution against it and the other House passed a resolution in favour of it?

U Ba Pe: If, when a Bill is initiated in the Upper House and rejected by the Lower House, the Upper House passes a resolution for a joint session the Lower House should agree; there should be no question of going against that at all.

Chairman: Why should they agree? They do not always!

U Ba Pe: That should be the convention.

Chairman: I merely want to get your view. Your proposal is, I gather, that you do not require the assent of the two Houses for the calling of a joint session, but that a resolution passed by a bare majority in one House should decide the matter of there being a joint session. Is that right?

U Ba Pe: Yes.

Lord Mersey: You might have the Upper House calling for a joint session and the Lower House disagreeing and not attending, and in such circumstances the Upper House would alone be represented and be able to have its way.

U Maung Gye: You might leave to the Governor the power to call a joint session on a resolution by either House.

Chairman: You would leave it to some extent to his judgment as to whether it would be wiser, in the interests of the whole country constitutionally, to have a joint session. In some cases it might be a waste of time to have a joint session, and it might be better to let the Bill die if it were knocked out in one House or the other.

Mr. Howison: I agree that the calling of a joint session should be left to the discretion of the Governor.

U Maung Gye: I do not want to be misunderstood. I would leave no discretion in this matter to the Governor. My view is that the Governor should call a joint sitting of the two Houses if he is asked to do so by either House.

Chairman: Say that the Upper House wanted a joint session, and the Lower House by a large majority decided against it. Nevertheless, you say, it would be the duty of the Governor to call that joint session?

U Maung Gye: Yes, but that is an extreme case.

Chairman: I only want to bring out your view.

U Maung Gye: If a Bill passed by the Lower House is amended by the Upper House and such amendments are rejected by the Lower House and if it is left to the Governor to decide whether a joint session of the two Houses is to be called, the Governor might think that in the circumstances the Bill should not be proceeded with further, and so he might refuse to call a joint sitting of the two Houses, and in that way kill the Bill.

Lord Mersey: I should like you to answer the question which My Lord Chairman put to you. When the Upper House passes a Bill and the Lower House throws it out, the Upper House may ask for a joint session. The Lower House may be against the joint session, but the joint session is automatically called. The Lower House does not attend, and the Bill passes with the concurrence of one House only. What do you say to that position?

Chairman: There are numbers of cases of the kind. I have known it happen here, only we have not often had joint sessions. A Bill is passed through the Lower House, and amended in the Upper House. In the Lower House they do not like the amendments, and if there is no joint session and the Lower House refuses the amendments, the Bill is dead. They may have a shrewd suspicion that if there was a joint session the Bill might be passed with the amendments, and therefore they say they do not want a joint session. That is only one instance out of many. Is it to be the Governor's duty to call that joint session at the instance of one House and against the will of the other? You may get into great difficulties there and is it not better to give some discretion to the Governor to say whether or not he thinks, reviewing the whole situation, it is better to have a joint session or not have a joint session?

U Ba Pe: The Bill originates in the Upper House and is sent down to the Lower House. Supposing the Lower House rejects it; then the Upper House by resolution asks for a joint session. Now the question is, if the Lower House does not agree to it, what will be the result?

Chairman: What will be the procedure rather.

U Ba Pe: The procedure. One suggestion is that the Governor should be empowered to call a general session; but if the Lower House refuse to attend it, what will happen? Now suppose the Governor has the power to call or not to call, and he decides to call it; the Lower House sticks to the position of not attending. The position will then remain the same.

Chairman: No, not at all.

U Ba Pe: In both cases the Lower House refuse to co-operate.

Chairman: No, because I am suggesting the Governor should have discretion. In the one case he is forced to do it and there might be these difficulties; but if it is left to the discretion of the Governor, he would of course consult Ministers and people in the House and so on as to what should be the proper decision to take. Of course, he finally takes his own decision; but it is a very different thing from putting a rigid duty upon a man. That is very different from allowing some possibility of that man exercising his discretion. Those are very different cases.

U Ba Pe: I can see there is some force in the argument for asking that the Governor should have some discretion, but in the extreme

case cited by you I do not see that it makes any difference at all. In either case it is left to the will of the Lower House to attend or not to attend.

Chairman: But that would be rather accentuating the difficulties between the two Houses.

U Ba Pe: You are taking a very extreme case.

Chairman: You can modify my case if you wish; I will say that there was unwillingness in another place. However, I do not want to bother you with too many possible cases. It really comes down to this: is it not better to leave some discretion in the Governor in this case rather than to tie him down rigidly to ask for a joint session under circumstances when in his own judgment and in the judgment of other people possibly too, it would be a very unwise thing to do? That is the whole point.

U Ni: I would rather be on the side of promoting friendly relations between the two Houses. I do not see why either House should be shy of meeting the other. I would place myself in such a position that I would be promoting friendly relations between these Houses. Whatever provision may be necessary to achieve that end, I am in favour of it.

Mr. Isaac Foot: I see, My Lord, the power is optional in the Australian Constitution as to the Governor. It speaks of the difference there between the House of Representatives and the Senate, and the appropriate clause reads:—

“ If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.”

Chairman: Yes, I think that does get rid of the difficulties that we were discussing. There are a few short questions that I have here that I did mention. One is: Should Ministers be allowed to speak in both Houses? Should Ministers be allowed to vote in both Houses? Then there is the question of disqualification for members of the Legislature; and then the other smaller question as to whether under a system which is suggested by which anyhow a proportion of the members of the Upper House should be selected by the Lower, they are at once disqualified, if they are selected from the Lower House, for sitting in the Lower House, or whether they have got a choice; and how those vacancies should be filled up. I agree that is a smaller question, but perhaps on those two or three points we might have opinions.

U Ba Pe: As regards the position of the Ministers I think they should have the right to address both Houses. I would even go further and say, in appointing the Ministers, the members of the Upper House, if they are elected by direct vote, should be eligible for being Ministers. I will go so far. It should not be confined to the Lower House. It should extend to the elected members of the Upper House.

Chairman: I am not quite clear about this. It is suggested that some members should be selected by the Lower House. They would not be elected by direct vote but would become members by a secondary election. Do you mean they would not be eligible?

U Ba Pe: Only those elected by direct vote.

Chairman: Elected by direct vote in the constituencies.

U Ba Pe: Yes, in that case I would allow them to be Ministers. I would not confine the selection of Ministers to the members of the Lower House only, but I would include those returned to the Upper House by direct vote.

Chairman: It has been suggested that at any rate, a proportion of the gentlemen in the Upper House should be elected or chosen by the Lower House itself.

U Ba Pe: Yes.

Chairman: In the case of persons so selected are you saying that they should not be eligible as Ministers?

U Ba Pe: Yes. According to our view there would be three classes of persons in the Upper House. Half the members would be elected by direct vote in the constituencies on a territorial basis. Then there would be one-fourth who would become members by indirect election by the Lower House from a panel. The remaining one-fourth would be nominated by the Cabinet or by the Governor on the recommendation of the Cabinet. Therefore, there would be three classes of members. Those who are directly elected from the constituencies would be eligible for the post of Minister.

Major Graham Pole: But not the others.

U Ba Pe: I do not want Ministers to be selected or chosen from the nominated members.

Chairman: How many nominated members do you think you would have?

U Ba Pe: One-fourth of the members of the Upper House.

Chairman: Well, let me put this to you. I am asked to be a nominated member and I say that I am much obliged and I should like to be one. But then I am told "Remember this, you will be in an inferior status to all the other members of the Upper House. You cannot hold ministerial office and therefore you will be in a different position from the other members." Do you really think that you will get men willing to go into the Upper Chamber with a lower status than the other members of the Chamber?

U Ba Pe: They are men who represent special interests.

Chairman: I know that, but do you think that men would be willing to go in on those terms. Do you think you would get good men to take a different position from those who were elected?

U Ba Pe: There is no reason why you should not get good men. You would have two classes, nominated members and indirectly appointed members, and those nominated would be in the same category as those who are indirectly elected.

Chairman: You say that nominated people would not be eligible to be Ministers.

U Ba Pe: No.

Lord Mersey: But supposing a nominated member is the best man?

U Ba Pe: He can stand for election. If he is the best man he is eligible to get in by election.

Chairman: I think a good many people would not agree with that.

U Ni: May I say a word as regards the question of minority representation which has just been mentioned? I suggested that such people should be sent to the Upper House to represent special interests and so forth. They could voice their views in the Upper House and I thought that *U Ba Pe* agreed with that. He said something to the effect that these special interests could be represented in the Upper House. In that case representation in the Upper House would not be confined to members sent there by these three methods. There will be four. One method is direct election; another is indirect election by the Council; the third is nomination by the Cabinet, and the fourth is the representation of special interests.

U Ba Pe: That is nomination.

Sir O. de Glanville: I should like to say a word on this subject, My Lord. I am afraid that if all the suggestions are adopted we shall have a very curious Constitution. I am in favour of Ministers being selected from either House irrespective of whether they are nominated or elected. In practice I cannot see any difficulty in this at all. If we admit the joint responsibility of the Ministry, no one could possibly be selected as a Minister unless he has a very large measure of support in the Lower House. That would be the essential condition for making a man a Minister. If the Chief Minister, in selecting his colleagues, wishes to appoint a nominated member from the Upper House, he will have to consider whether this will weaken his position. He will have to say to himself, "If I appoint him, is he a man who has support and a following in the Lower House, so that I can strengthen my position, or will he weaken my position?" The practical result of it will therefore be that no one will be appointed a Minister who is a nominated member unless he has so much support in the Lower House that he will be a source of strength and not of weakness to the Ministry.

Mr. Cowasjee: I also take the view that there should be no distinction between the nominated and the elected members of the Upper House. If invidious distinctions are made between the nominated and the elected members, you will find that it would be somewhat difficult to get the very best men to accept the responsibility to act as nominated members of the Upper House. On that ground alone, I think there ought to be no distinction between a nominated member and an elected member. A nominated member may be, from all points of view, a most excellent man to be selected as a Minister, and his selection by the Chief Minister for a place in the Cabinet may also strengthen the Cabinet itself.

Major Graham Pole: I should like to ask *U Ba Pe* to be good enough to make one point clear to me. With regard to the 25 per cent to be elected by the Lower House, are they to be elected from the members of the Lower House or from outside altogether?

U Ba Pe: From a panel of candidates.

U Ni: From outside.

Mr. Isaac Foot: Will they be eligible for the Ministry?

U Ba Pe: Yes, it is only the quarter who are nominated who will not be so eligible.

Mr. Isaac Foot: I can understand the position if it is said that no man ought to exercise the responsibility of being a Minister unless he has been face to face with the electorate.

U Ba Pe: That is the idea.

Mr. Isaac Foot: That is an intelligible argument, but U Ba Pe breaks into that rule on his own admission now in answer to my friend, Major Graham Pole, because he says that a certain number of the members of the Second Chamber who will be eligible for appointment to the Ministry will have been elected by indirect election, and they need never have been before the electorate.

U Ba Pe: The reason why this second class is put in in variation of the strict theory is because they will be chosen from a panel of men selected for their service to the country, for their high experience in administration, and so on. They will be a class by themselves. These people ordinarily will not contest elections, but their services will be of value to the country.

Mr. Isaac Foot: As Ministers?

U Ba Pe: Yes, I do not want to exclude them. The nominated class, on the other hand, is quite distinct; it is only meant for those people who will represent certain interests left out in the election. They have only to advise on particular subjects, but the other class can contribute more to the working of the Upper House and to the working of the Government, because they will have experience and knowledge and they will have the confidence of the country; yet they may not be in a position to come in by direct election.

Mr. Isaac Foot: It would be a great pity, would it not, to limit the circle from which you can select your Ministers? These nominated people are members of the Second Chamber. The supply of potential Ministers cannot be so large in Burma, or indeed in any country in the world, that you can afford to limit your field of choice.

U Ba Pe: The total number will be sixty, and out of that number this question can only relate to fifteen.

Mr. Isaac Foot: The men who are to be nominated, I assume, would be men generally of experience and capacity, and if there should be one amongst them who is marked out for ministerial office, but is in Parliament by way of nomination, why should you deprive yourselves of his services.

U Ba Pe: Those who would be nominated would be a different type of people. They are required for special advice or the service of special interests only, not for general work.

Mr. Isaac Foot: That fact would be apparent to the Minister, and he is not likely to want for ministerial office a man not capable of dealing with the matters concerned. You are limiting the choice of the Governor.

U Ba Pe: I do not think I am limiting the choice much at all.

Chairman: Here is a man who happens to be nominated. The Chief Minister may say, "I want that man in my Cabinet. I think he is the best man for the purpose." You would say, "No, I will limit the choice of the Chief Minister." It is admitted that the man in view carries great weight in the Chamber, he might be a very able administrator, but merely because he has got into the Chamber by nomination, he is not to serve in a ministerial capacity. That is your point, is it not?

U Ba Pe: You are thinking of an impossible case. You are assuming that this particular man must be in the nominated section only. The possibility of having as good men in the forty-five seats is not taken into consideration. You would confine your view to the fifteen nominated seats only.

Chairman: You must not misrepresent me, U Ba Pe. I never said anything so absurd. I merely said that you might have among that nominated section a man specially qualified on some specific subject, and he might be the best man to deal with it. He might be discoverable in the other quarter, but it is certainly true that he might be discoverable equally in this quarter, assuming that these people were well and carefully selected. Yet you wish to exclude these people from the possibility of ministerial positions.

U Ba Pe: The type of man of whom you are speaking would not accept nomination in the first place. He would refuse nomination, at least in Burma, and would go to the poll and get himself elected to the Lower House, or would become a member of the Upper House.

Chairman: Well, if the people chosen by nomination are inferior, there will be no fear of the Governor wanting them for ministerial office.

U Ba Pe: They are selected to go into the House by nomination in order that they may do certain special work.

Lord Mersey: Have you possibly got a more subtle idea which has happened in this country, that supposing you were the Prime Minister and there was a man on the opposite side whom you did not at all wish to see a Minister, you would advise the Governor to nominate him to the Upper Chamber, and then you would be safe. It used to happen here with the Sheriffs and with Irish Peers.

Chairman: May I suggest that till we meet this afternoon you should consider that question of qualification for election. I have a list here and of course I could give them if necessary—the list of qualifications of elected members for the Legislative Assembly in India, with which you are no doubt familiar. We might discuss afterwards whether you should have those regulations, or others, or whatever is suggested. I think we might proceed with that immediately after the adjournment. I think there is general agreement, as nobody has spoken against it, that Ministers should speak in both Houses. As to whether they should vote in both Houses I do not think an opinion has been expressed.

U Maung Gye: They can only vote in the House to which they belong.

Chairman: The point is whether they should not only speak but vote in the House to which they do not belong.

Sir O. de Glanville: I understood the general opinion was that they should speak in both Houses but only vote in the House to which they belong.

(*The Committee adjourned at 1-12 p.m., and resumed at 3 p.m.*)

Chairman: I have before me a list of qualifications, or rather I think they might be called disqualifications, for membership of the Legislative Assembly in India. They are the existing disqualifications for membership of the Legislative Assembly in India, and no doubt they are familiar to a number of the Delegates present. Perhaps we might take them as a basis for discussion so that we can determine whether the Committee would be prepared generally to accept these disqualifications, or whether they would wish to alter them, or to put in others.

Major Graham Pole: I notice one of the first disqualifications is that a female is not qualified.

Miss May Oung: I strongly object to that.

Lord Winterton: That is no longer true, is it?

Chairman: We shall no doubt hear views on that subject. The list of disqualifications is rather long. I do not know whether you would wish them to be read out.

U Ni: I think you might read them, please.

Chairman: Very well, I will read them.

“(1) A person shall not be eligible for election as a member of the Legislative Assembly if such person—

(a) is not a British subject; or—

(b) is a female; or

(c) is a member of the Legislative Assembly—”

I think that cannot be right. it must mean, I think, is already a member of the Assembly—

“and has made the oath or affirmation as such member; or

(d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court; or

(e) has been adjudged by a competent court to be of unsound mind; or

(f) is under 25 years of age; or

(g) is an undischarged insolvent; or

(h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part.”

I do not think I need read out the next paragraph because it applies to the rulers of States in India and therefore does not really relate to Burma. Then, it goes on:

“Provided further, that the disqualification mentioned in clause (d) may be removed by an order of the Governor-General in Council in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be

eligible for election for five years from the date of the expiration of the sentence.

(3) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an enquiry by Commissioners appointed under any rules for the time being in force regarding elections to a Legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule V, such person shall not be eligible for election for five years from the date of such conviction or of the finding of the Commissioners, as the case may be; and a person reported by any such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) If in respect of an election to any legislative body constituted under the Act a return of the election expenses of any person who has been nominated as a candidate at that election is not lodged within the time and in the manner prescribed by or under the rules made in that behalf, or if any such return is lodged which is found, either by Commissioners holding an enquiry into the election, or by a Magistrate in a judicial proceeding to be false in any material particular, neither the candidate nor his election agent shall be eligible for election for five years from the date of such election:

Provided that any disqualification mentioned in sub-rule (3) or sub-rule (4) of this rule may be removed by an order of the Governor-General in Council in that behalf."

Then in paragraph 6 there is set out a special qualification for certain constituencies. I do not think I need read that. What I have just read are roughly the qualifications or disqualifications for elected members. I think we might start with that as a basis, anyhow, for discussion, to see whether these rules generally recommend themselves or whether it is thought that a fresh set of rules ought to be drawn up.

Miss May Oung: I ask for the removal of the sex disqualification.

Mr. Isaac Foot: My Lord, I think there ought to be no discussion on that, having regard to the conclusion of the Statutory Commission on the necessity of doing everything that can be done to include women in the membership of the governing bodies of the country.

Mr. Harper: These Legislative Assembly rules are repeated, more or less word for word, in the present Burma Council rules, and the question of sex disqualification is referred to there in these words:—

" Provided further that, if a resolution is passed by the Council, after not less than one month's notice has been given of an intention to move such a resolution, recommending that the sex disqualification mentioned in clause (b) should be removed, the local government may, with the consent of the Governor, make an order in this behalf providing that no woman shall be disqualified by reason only of her sex from being eligible for election as a member of the council."

Mr. Isaac Foot: What has been done on that?

Miss May Oung: The sex disqualification has been removed.

Chairman: In that case it is hardly worth while retaining (b).

U Ba Pe: Under (h) the age for candidates for the Second Chamber should be 35.

Chairman: That is for the Second Chamber; you mean that this is a special rule which you would like to suggest for the Second Chamber?

U Ba Pe: Yes.

U Ni: Would it not also be proper for us to leave some power in the hands of the Legislature so that they may remove or amend these disqualifications in future? Should not there be some amending power with the Legislature, not involving the amendment of the Constitution? You would not have these classes inserted in the body of the Constitution, I take it.

Chairman: I am advised that these are generally included in the rules made under the Act and not in the Act itself. Your observation is that the Legislature, or the Government I suppose, should be able to amend these rules?

U Ni: Yes.

Chairman: Presumably they would be laid on the Table of the House. I will make a note of your observation.

Are there any further points on this?

Lord Winterton: There is one point in this connection which I should like to mention. It is true that under the Government of India Act these things are embodied in the rules made under the Act. I do not know whether this is the time to introduce the matter, or whether it is of very great importance, but there is the question of who is the rule-making authority. Should it be some exterior authority or should it be the Burma Legislature?

U Ni: It would be much better to leave this matter in the hands of the Burma Legislature, because peculiar conditions may arise and they may have to restrict or modify or broaden the regulations.

Chairman: Would not the best plan be in the first instance to lay this down in the ordinary way, but make it subject to modification afterwards?

Miss May Oung: I agree.

Sir O. de Glanville: My Lord, as regards these rules there is no doubt that in starting a Constitution we must start it with rules, and therefore the rules may properly be discussed here. They will be, if not part of the Act itself, attached to it as rules. These rules will govern the matter until altered. The question as to how and when they are to be altered does not arise now, but will arise when we come to discuss the safeguards. It is a point which must not be lost sight of, and must be settled before we dissolve.

As regards disqualification, there is one point I would like to raise. At present a person convicted of certain criminal offences is not eligible to sit for the Council until five years after the expiry of his sentence. In the case of an insolvent after he has had his discharge, he can never sit unless he has obtained a certificate from the High Court that his insolvency was due to misfortune. Thus a much greater penalty is imposed on the insolvent than on the criminal. Insolvency

is very rarely held by the Courts to be due to misfortune. Of course, if an earthquake destroys a man's property, that is misfortune. But in the case of a man who is over-confident and rash in his dealings it is difficult to say that his insolvency is due to his misfortunes. I think the penalty of insolvency is too great. It would be a sufficient penalty to say that he should not be eligible until five years after his discharge, thus dealing with his insolvency in practically the same way as if it were a criminal offence.

Lord Winterton: The English rule is that a man is incapable of sitting in Parliament if he is an undischarged bankrupt. Directly he becomes discharged he can sit in Parliament. I suggest that that rule should be followed in Burma.

Mr. Cowasjee: In the case of an insolvent person in Burma, under our rules, he has not only to get a discharge, but to obtain the required certificate, either from the High Court, or, outside Rangoon, from the District Courts. Unless he obtains a discharge he remains insolvent, and if his insolvency has been due to his fraudulent conduct he never gets his discharge. If unable to pay his debts in full, he at times if there is no fraud, gets his discharge as a matter of course on paying one-fourth of his liabilities. I submit that some such wording as this "his insolvency was caused by misfortune without any misconduct" would cover the case. This qualification would prevent a fraudulent insolvent coming in who obviously is not a fit and proper person to be a legislator. As a matter of course, a man gets his discharge if his insolvency is due to circumstances over which he has no control.

Chairman: Such as his expenditure exceeding his income, and that kind of thing?

Mr. Cowasjee: Yes, if his liabilities are more than his assets. If his assets are £100 and his liabilities £1,000 he can get his discharge if the Court is satisfied that the insolvency is due to circumstances over which he had no control. So I would submit that my suggested rule may be maintained. It will only affect the case of an insolvent whose insolvency is due not only to misfortune but misconduct on his part.

Lord Winterton: Might I ask Mr. Cowasjee a question? I have an open mind on this question, but would he deal with this question if he would be good enough to do so. What is the objection to following the simple rule that I stated of the English law that the moment the man obtains his discharge he is eligible to sit?

Mr. Cowasjee: Yes, My Lord, I have no objection because the man will never obtain his discharge if it is a case of misconduct on his part.

Lord Winterton: So that it really comes to the same thing?

Mr. Cowasjee: It really comes to the same thing.

Major Graham Pole: Will you look at sub-section (g); "is an undischarged insolvent," or (h) "being a discharged insolvent has not obtained from the Court a certificate." You see he is discharged there.

Chairman: Yes, quite right.

Major Graham Pole: And he requires a further certificate after that.

Mr. Cowasjee: Sometimes it so happens that the insolvent does not face the Insolvency Court and apply for his discharge because he thinks his case is so bad.

Major Graham Pole: But this particular case is the case of a discharged insolvent.

Mr. Cowasjee: If it is the case of a discharged insolvent I do not think there can be any objection.

Major Graham Pole: That only deals with a discharged insolvent.

Mr. Isaac Foot: But they are qualifying the discharge; they are making it harder there than it is in this country.

Chairman: It is an additional disqualification. He may be discharged, but that is not enough; he has, also, to obtain a certificate that his insolvency was caused by misfortune without any misconduct on his part.

Mr. Isaac Foot: The words are simpler. If I may help Mr. Cowasjee upon that, I have had handed to me the Constitutions of Australia and South Africa where the two qualifications are these. In the case of Australia; "(3) Is an undischarged bankrupt or insolvent." That means an undischarged insolvent.

Chairman: Well I am not quite sure what it does mean.

Mr. Isaac Foot: I should have thought that meant undischarged bankrupt or insolvent. That is using the word "insolvent" as a substantive and not as an adjective.

Chairman: There are many of us insolvent without knowing it.

Mr. Isaac Foot: I quite agree. The phrase in the Constitution of South Africa is "an unrehabilitated insolvent." But there is no clause in either of these Acts that corresponds with paragraph (h).

Major Graham Pole: They may have there a special definition of "insolvent," of course.

Mr. Cowasjee: As regards clause (h), we might contemplate a case like this, and I know a case has occurred in the case of an insolvent. He was a fraudulent insolvent; but subsequently he inherited his father's fortune; he was able to pay up his creditors in full; so his insolvency, of course, was withdrawn, the creditors having been paid in full. But a man like that would not get a certificate from the Court that his insolvency was not due to misconduct on his part.

Major Graham Pole: Then he would not be discharged.

Chairman: He would not get his certificate.

Mr. Cowasjee: He would be discharged in the sense that he has paid his creditors in full; there is no pending insolvency so far as he is concerned.

Chairman: Cannot we leave it as it is? There is no particular advantage in getting into the Assembly a rogue who, though he is insolvent, has been discharged, but cannot get a certificate that it is due to misfortune and not his fault.

Mr. Cowasjee: I think that class of people should not be in the Assembly or Council.

Chairman: I do not think there is any opposition, as I understand, to the proposition.

Sir O. de Glanville: I do not think I have been quite understood. I mentioned the case of the ordinary criminal who has committed theft or criminal breach of trust. There is a penalty of five years in that case. In the case of an insolvent whose insolvency is due, say, to speculation, that is not fraud, but he can never get a certificate under that clause. Therefore he is debarred for ever. It is those cases I am thinking about.

Chairman: I am not quite clear about that. How can you say that speculation was misconduct?

Sir O. de Glanville: It is not misfortune.

Chairman: It was caused by misfortune.

Sir O. de Glanville: And not misconduct.

Chairman: There is a distinction between misfortune and misconduct.

Sir O. de Glanville: Quite so, My Lord. If he has committed an act of insolvency through speculation no court can give him a certificate that it is caused by misfortune, but misconduct really means something more than speculation. It amounts to something on the criminal side.

Chairman: I quite understand your point, but might I suggest that the court would have to consider whether insolvency was due to misconduct? Then if the court found that there was no misconduct it would fall under the general head of misfortune.

Sir O. de Glanville: If that is made clear it would be all right.

Chairman: That is how I read it but, of course, my interpretation may be wrong.

Sir O. de Glanville: I do not think that that is the construction that would be placed on it under our Insolvency Act.

Major Graham Pole: If he is to be found guilty of misconduct in that way he is to be put in a much worse position than a criminal who, say committed manslaughter, and afterwards got out.

Chairman: That is so.

Lord Winterton: That is why I would advocate that we should stick to the English rule. I think for the reasons mentioned by Major Graham Pole that that is what we ought to do.

Mr. Isaac Foot: It also applies in Australia and South Africa.

U Maung Gyee: I think it might be better to delete altogether sub-head (h).

Chairman: Not altogether, would you? I think I see what you mean. You would leave it to his constituents to determine whether it was due to misfortune or misconduct.

U Ni: I quite agree with the suggestion of U Maung Gyee.

Mr. Howison: I think myself that this clause has probably good reasons behind it. The conditions as regards bankruptcy in India and in this country are not necessarily the same, and probably the proportion of cases where misconduct arises is greater in India than here.

Mr. Isaac Foot : Could he get his discharge?

Mr. Howison : He could get his discharge.

Mr. Isaac Foot : Is there more difficulty in obtaining a discharge from bankruptcy in Burma than in this country?

Mr. Howison : I could not say that. In any case it is obvious that he can get his discharge, for this clause says, " being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part."

Major Graham Pole : But why make him worse than a criminal?

Mr. Howison : I am entirely against that. I am in favour of limiting the penalty to five years, as suggested by Sir Oscar de Glanville.

Chairman : Shall I report that we are generally in favour of modifying this disqualification so as not to make the position of a bankrupt worse than that of a criminal.

Lord Winterton : Bring it into accord with British practice.

Chairman : Yes, more in accord with British practice.

Mr. Isaac Foot : And we can rely on his opponent to bring before his constituents all the facts of the case.

Chairman : Yes, I think we can certainly rely on that. I do not think we need discuss that further.

Mr. Campagnac : I should like to say that there might be some difficulty in applying the bankruptcy laws of this country because they are not quite the same in Burma. In Burma we have two bankruptcy laws. There is the Provincial Towns Insolvency Act and there is also the Presidency Towns Act. Under the Provincial Towns Insolvency Act I do not think a man ever applies for discharge. It is not necessary for him to do so, but under the Presidency Towns Act he has to apply for discharge, so you have quite a different position from discharge under the English Bankruptcy Act. I think that is the reason why the rule was framed as it is now.

Chairman : He would still be undischarged, would he not?

Lord Winterton : Even if there is a discrepancy, I venture to say it does not outweigh the potent objection put by Major Graham Pole. One hesitates even to appear to be dogmatic about a matter concerning which the British and Indian representatives from Burma and the Burman representatives have obviously more experience than we have, and I do not wish to be dogmatic, but I do think that the objection which Major Graham Pole has put forward is very potent, namely, that you are in fact penalising the bankrupt to a greater extent than the criminal.

Mr. Cowasjee : In the case of manslaughter there may be no moral turpitude; a man may do it in a state of excitement.

Major Graham Pole : Take burglary then.

Chairman : Would you like me to bring up a suggested clause later? (Indications of assent.) Then I will try to do that.

U Ni: There is something we should like to say about clause 2, which concerns conviction by a criminal court. There are certain classes of offences which may be said to come under the category of political offences, offences in which the crime is really of a political nature, sedition and so forth. Obviously you must draw a distinction between these and crimes involving moral turpitude. That distinction is made in other countries, and possibly even here.

Major Graham Pole: Would you like a proviso like that at the top of page 3?

U Ni: I should like to have a proviso which would make it clear that this does not apply to people who have committed a mere political offence. Something of the sort has been done already in Burma, where it has been provided that those who have committed an offence under a certain chapter of the Indian Penal Code not involving moral turpitude have to wait five years before they can exercise their rights. I do not think it is a novel procedure to have a proviso of that nature.

Mr. Haji: I am afraid that in this case the suggestion made by Major Graham Pole would not work effectively. I think what he meant was that the disqualification might be removed by an order of the Governor-General in Council in that behalf. Now, we all know the nature of these crimes in Burma and India.

Chairman: Shall we confine ourselves to Burma?

Mr. Haji: I mention India because the Indian Penal Code is concerned, My Lord.

Chairman: Very well.

Mr. Haji: At the present time, under the Indian Penal Code, to which both countries are subject, the so-called seditionist, the editor of a newspaper, the lecturer and the politician might, any one of them, be brought under these categories. I think we have got to put our heads together and evolve a formula under which no man who has been to prison for any period, whether two months or ten years, merely for expressing his opinions should be disqualified. We should try so to word the disqualification as to secure this. I do not want to suggest the exact language now, but the suggestion which I throw out is that no disqualification should be based on imprisonment, or on a period of prison life which a man has served, merely for expressing his opinions, it may be on a moral subject, it may be on a political subject, or it may be on any other subject.

Major Graham Pole: I think that is going too far. Some men might be of opinion that the best thing that their friends could do would be to murder all their opponents. That would be an "opinion" which they might hold.

Mr. Haji: It would be an incitement to murder.

Major Graham Pole: Yes, but it would be expressing an opinion. I think you have to get a better formula than merely an "expression of opinion."

Mr. Haji: Even in this country cases used to occur where any championship of free thought would have been visited by a term of imprisonment. There may be a time, ten or twenty years hence, in

Burma when people supporting a particular form of social organisation may not be looked upon with favour by the Government of the time and may be imprisoned. I do not want to restrict this particular subject to the expression of political ideas alone. Let us try and evolve a formula which will go beyond the political, and include the social and religious, and yet stop short of incitement to murder.

Lord Winterton: I agree with what Major Graham Pole has said, and indeed I would go further. I believe it to be absolutely impossible to devise a formula which would distinguish between—to use a cant phrase—a law involving moral turpitude and a law which does not. If one approaches the matter from a point of view which has been before us in this country, we might have an article in a newspaper which might be held to be merely an advocacy of particular political opinions, but in fact was an incitement to murder. I would suggest with great respect that if we get into this area of discussion it will open up an illimitable vista. I doubt if we could agree with the best will in the world, as to exactly what we should aim at. It would be better to leave things as they are, with the proviso that Major Graham Pole has suggested.

Mr. Haji: May I give an instance from the recent history of this country? Certain persons have been imprisoned for making speeches or writing articles inciting to mutiny in the Navy. When they come out of jail, will they be disqualified?

Lord Winterton: No, they will not; but equally they would not be disqualified if they had committed a theft or had been found guilty of manslaughter and sentenced to a year's imprisonment.

Mr. Haji: So it is possible to differentiate between manslaughter and incitement to mutiny.

Lord Winterton: No, the opposite is the case. You took the illustration of recent incidents in the Fleet. Some persons are at present in prison for incitement. But from the point of view of Parliament these persons are exactly in the same position as if they were in prison for theft or manslaughter. I think they can even be elected to Parliament while in prison, but certainly they can be elected when they come out. My argument was solely directed to showing the impossibility of differentiation. And I think you will find in the case of the most advanced democratic European countries—leaving Great Britain aside—exactly the same position exists. I know it does in France, because I know the case of a well-known communist in France who was imprisoned for sedition who was elected. Therefore, I say you have either to have the disqualification for all forms of crime or else not have any at all; that is the position with which you are presented.

Chairman: Do you think we can really discuss this very fruitfully here? I am extremely familiar with this point and have discussed it over and over again. It raises, of course, all sorts of highly technical legal and constitutional questions. I do not want to address you for a couple of hours on the subject myself at all; but I think this distinction between these political crimes and crimes of moral turpitude and so on, is a very, very difficult question. Would it not be better to leave this matter for the present as it is? I think it is very difficult.

U Maung Gye: My Lord, I do not think that this clause is necessary. In this instance, also, we might follow the British precedent. I am perfectly sure that ex-convicts have no chance of being elected to the Legislature in Burma any more than they have here. That being so, I do not think we need have this at all.

Major Graham Pole: Yes, then that puts the onus on the electorate.

U Maung Gye: Yes.

U Ba Pe: Yes, I think that is the best course.

Chairman: Is that right, because I daresay a man may not be elected, but is it not to some extent a public scandal if ex-convicts are running for constituencies, even though they forfeit their deposits?

U Maung Gye: I do not expect they will take the risk of being defeated at the polls. They are bound to be defeated.

Chairman: You never know. There are other reasons for running people for constituencies than that of getting in for the constituency, are there not? Well, shall we leave the matter as it is? I can report if necessary that there were some who held the view that there should be some distinction between legal and moral turpitude. I can easily put that in if that would meet the views of members.

U Maung Gye: I do not think there is any substantial disagreement on this point, and I believe my suggestion that this clause may be deleted will meet with general approval.

Chairman: Are you on clause (2) now?

U Maung Gye: Yes.

Chairman:

“(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence.”

You want to leave that out, do you?

U Maung Gye: Yes.

Mr. Isaac Foot: My Lord, before I decide I would like to have some guidance, which apparently we cannot have now, as to what was raised in the Round Table Conference on India upon this question. Certainly in the light of the information I have at my disposal I should not like to express an opinion right away.

Chairman: Well, I have the section of the Report here. Mainly, it says that certain views were expressed on each side. But I think I can easily give value in our Report to the fact that that view was expressed, that this disqualification should be removed.

Mr. Isaac Foot: And some further guidance as to the two Acts relating to South Africa and Australia about that I would like to have. I understand that in both Australia and in South Africa in their Constitutions there is a clause dealing with the criminal offender.

Chairman: Do you mean guidance as to the meaning of those clauses?

Mr. Isaac Foot: No, in seeing that we are taking, generally, advantage of what precedents we have, although we are not bound by them. I think the precedents that we have in the Acts relating to Australia and South Africa would be contrary to the elimination of clause (2).

Chairman: We will have that looked into.

U Ba Pe: There is one other point about disqualification which I should like to mention before we leave this subject. The first disqualification set out in this memorandum states:

“(a) is not a British subject.”

I should like to have it stated that a man should be disqualified, not only if he is not a British subject but if he is not also a citizen of the State of Burma. To be qualified he should be not only a British subject, but a citizen of Burma.

Chairman: What does that mean, “a citizen of Burma”? This seems to be rather a legal point. What is your view as to a citizen of Burma? Is there a legal definition of that point?

U Ba Pe: I will read you the definition.

“Every person, without distinction of sex, domiciled in the area of the jurisdiction of the Government of Separated Burma at the time of the coming into operation of this new Constitution who was born in Burma or, either of whose parents was born in Burma, or who has been ordinarily resident in the area of the jurisdiction of the Government of Burma for not less than seven years, is a citizen of Burma and shall within the limits of the jurisdiction of Burma enjoy the privileges and be subject to the obligations of such citizenship: Provided that any such person being a citizen of another State may elect not to accept the citizenship hereby conferred; and the conditions governing the future acquisition and termination of citizenship in Burma shall be determined by law.”

That would be the definition I should like to propose.

U Ni: That is section III of the Constitution of the Irish Free State, is it not?

Major Graham Pole: In this case you do not want to follow Great Britain?

Mr. Haji: You are quoting from a book on Nationality Laws, are you not?

U Ba Pe: Yes.

Mr. Haji: By whom?

U Ba Pe: It is “Nationality Laws,” by Flournoy and Hudson.

Chairman: Is this not rather a wider question than the mere qualification or disqualification of a man from standing for election to the Assembly? I agree that it has some relevance to election to the Legislature, but the question of citizenship is really a much wider question. It affects not only the right to be elected but the right to vote, and I think we had better deal separately with that.

U Ba Pe: If we are to deal separately with it, I am satisfied.

Chairman: Yes, I said we would deal with it separately.

U Ba Pe: In that case I will not press the matter now.

HEAD 6.

EXCLUDED AREAS.

The following point for discussion in connection with this Head was drafted by the Chairman:—

Should the areas at present scheduled under Section 52 (2) of the Government of India Act, continue to be excluded from the scope of the Legislature and administered by the Governor?

Mr. Isaac Foot: I should be glad if I might be allowed to say a few words about the Excluded Areas. I hope that we shall take that phrase rather than the "backward tracts." In the Montagu-Chelmsford Report reference was made to the backward tracts but the phrase "excluded areas" is one which I think ought now to be generally adopted. The phrase "backward tracts" was used in the Montagu-Chelmsford Report, but in our Report I hope we shall take the words "excluded areas." I understand that in that term is included the Shan States and the other districts in the list which you have before you. I will not read them because I am not sure that I can pronounce them correctly, but I think they are familiar to all the delegates and that they are quite clearly defined. I have seen what was set out in the Memorandum to the Statutory Commission and I suppose you have all read what was said by the Statutory Commission itself in Volume II of the Report in paragraphs 127—131.

As to the Shan States, My Lord, I assume we need not discuss their position, as they have already declared their wishes; and inasmuch as they have no desire as yet to come within the jurisdiction of the institutions set up in Burma they can, I assume, be excluded from our consideration in this matter. At any rate, that was discussed a good deal by the Conference and we need not cover that ground again.

As to the Excluded Areas, the question arises as to how they are to be administered in future. I think that all the conclusions arrived at by the Commissions and authorities who have studied the matter suggest that for the present, at any rate, they have to be governed by the Governor personally, and not by the Governor acting with Ministers responsible to the Legislature. This does not prevent any improvement in the machinery of the administration of these Excluded Areas, nor does it prevent any improvement in the administration of the area under the Shan Chiefs.

I do not think there would be any desire as yet for the new Assembly to take over the responsibility for the Excluded Areas, but, although it is proposed that they shall be left out of our consideration at present, and although they would not be brought within the ambit of the authority of the new democratic institutions which are to be set up, there is no reason, of course, why in the course of years all the territory which is now called Burma should not be brought under democratic control.

But here again, looking at things as they are in the year 1931, I think we can proceed only upon those lines, namely, that the responsibility for these districts must be with the Governor, and that the

Governor in this matter shall not act with the Legislature but on his own responsibility, responsible, of course, in the end only to the British Parliament.

U Ba Pe : With regard to the Excluded Areas, I am afraid I cannot altogether agree with the suggestion thrown out by Mr. Foot. I can agree with him to a certain extent, but not to the fullest extent. In Burma we have at present, in addition to the Shan States, what are known as the Excluded Areas. I am not concerned with the Shan States; they will remain apart, and for the present we are not considering them.

The other excluded areas, besides the Shan States, are divided into two; part of them are hilly and part of them are not. It is not right, I think, that a district like Upper Chindwin, which is at present excluded from the dyarchical system, should remain an Excluded Area. The people there have asked for representation in the Council, and they want the Reforms to be extended to that area.

Part of the Myitkyina District and the Bhamo District are quite fit for the enjoyment of the new Reforms. I can understand places like the Arakan Hill District and the Chin Hills District being kept apart from the Reforms for the present, but if areas like Upper Chindwin, Myitkyina and Bhamo are also to be classed as Excluded Areas we cannot agree to that.

Even in the case of those areas where it is not possible to introduce the Reforms at present, such as the Kachin Hill Tracts, the Chin Hills, the Arakan Hill Tracts and the Pakokku Hills, if they are excluded from the control or influence of the Legislative Council altogether we shall not be able to agree, for the simple reason that the control would have the very good effect of making people there feel the influence of the Council at once. At present we cannot even put a question in the Council with regard to these Excluded Areas. We have no say in the matter at all, and the people of those areas have no remedy for their grievances.

The exclusion of all the Excluded Areas from the work of the Legislative Council has the effect of making the Council unaware of the requirements of those places, on the one hand, and of making the people in those areas helpless and unable to express their grievances on the other.

Major Graham Pole : Are the areas really Excluded Areas? They are not in the list I have here.

U Ba Pe : I have not seen that list.

Major Graham Pole : You referred to something outside these?

U Ba Pe : Yes. I will confine my remarks to the areas of which I have just been speaking. I have said that for these areas, though we cannot extend the Reforms to these at present nor for some time to come, I could not agree that the Legislature should have no voice with regard to them altogether. We could agree to classify them as backward tracts for the time being, but I should like the Council to have some say with regard to these areas.

Lord Winterton : I should like to make what is really a suggestion to facilitate a settlement. On the information at present given, I do not think I could agree to any division of authority at this moment,

but it would seem to me perfectly reasonable to recommend with regard to these Excluded Areas, that the question of their inclusion within the electoral areas of Burma should be brought up and discussed in some form at some future date, with the exception, of course, of the Shan States, which would be in a different category, their rulers having already expressed very clearly their opinion with regard to them. That might be a way of dealing with the question, namely, that the list of Excluded Areas should be as in the list which U Ba Pe has just seen, but with the provision that the matter should come up for review at some future date, save in regard to the Shan States. I am afraid that would not meet the other question put forward by U Ba Pe, namely, the division of authority. I would give a willing hearing to any suggestion by which the question could in some form be discussed in the Assembly, though as at present advised—if I may use that somewhat pompous term—I should be opposed to any division of authority.

U Ba Pe: It is not a question of division of authority here. I have not made myself clear. We want to have the right to take an interest in those areas by means of questions and so on in the Council. At present we are not allowed even questions in the Council relating to the Excluded Areas.

Sir O. de Glanville: My Lord, with regard to the Excluded Areas may I say that I am in entire agreement with Mr. Foot. With regard to these Excluded Areas I should like to refer to what the Statutory Commission has said about them. Those are the Excluded Areas in the schedule that has just been read out. This is what was said by the Government of Burma, or rather by the Statutory Commission:—

“ The dictum of the Burma Government on the Chin and Kachin Hill Tracts applies we consider to all the administered excluded areas of Burma. These areas are all unfitted to participate in a Constitution on representative lines suitable for Burma proper. Their people are educationally backward and have evinced no desire to be linked with the Burmans, who in turn betray little interest in these Hill tracts. So far as our short experience of Burma goes we can confidently affirm the truth of these remarks. ”

It is now suggested that they should remain as they are now under the Governor, but that the Burma Council, which will be in no way responsible for their administration, should be allowed to interfere with criticism and questions and answers, and so on, in the Council. I think that is objectionable. If the Council is to have no responsibility I do not see why it should interfere; but there may, of course, arise occasionally questions with regard to Burma and these Excluded Areas which might be of interest to the inhabitants of Burma proper, and I would suggest, what I suggested before as regards reserved subjects, that discussion on these Excluded Areas and the admission of questions should be in the discretion of the Governor.

Lord Winterton: To allow questions and discussions?

Sir O. de Glanville: Only if the Governor wishes.

Lord Winterton: Would this suggestion meet the two views: Would it be possible to have some *ad hoc* occasion say once during

the session, on which a statement would be made on behalf of the Governor, acting on behalf, or whatever you like to call it, of the subjects which are under the Legislature—a statement made as to the backward tracts, and afterwards an opportunity given to the Legislature to ask questions? That would get over the difficulty which might be caused by allowing questions from day to day without previous notice, and it would to some extent meet U Ba Pe's point.

U Ba Pe: Not altogether.

Lord Winterton: No; I said to some extent. If you do not mind, U Ba Pe, would you say how you would deal with that from your point of view?

Sir O. de Glanville: I am hardly in a position to express an opinion on that. That would be a matter, I think, for the Secretary of State to consult with the Governor of Burma and see how far it would be acceptable. What we want to avoid is any undue interference.

Lord Winterton: I quite agree.

Sir O. de Glanville: I do not care what is done provided there is no undue interference. If the Governor agreed to such a course, I think no one would have any objection to it; but I do not approve of having a Governor responsible to the Secretary of State interfered with by some other body which is not responsible and which may embarrass him.

U Ba Pe: My Lord, I do not think it is the idea of the British Government to keep these areas in a backward state for ever. The idea is to develop them and when they are fit they will be put into the scheme of Reform. Now the Burma Legislative Council wants to quicken the progress in those areas; they want to vote a larger sum for better communications, for more schools and so on. Now we cannot do it. If they are excluded entirely from the purview of the Legislative Assembly of Burma, we have nothing to do with the matter and cannot say anything. The result will be to keep those areas backward for ever, or if not for ever, for a longer time than they should be if we have the opportunity of contributing our share in developing those areas. Because the people there are not yet fit to enjoy Reforms, it does not follow that those who are fit to enjoy the Reforms should be debarred from having their say in the matter. After all, they are parts of Burma and the whole population should have a say in the matter. I do not think it is really in the interests of the people in the backward tracts to have them excluded or deprived of any say in the matter. I think it is better for the people of the backward tracts to allow the Council to have a say in all matters. The Council should not only discuss matters on a statement made by the Governor, but should also be able to mould the policy in these areas so as to make them fit for the enjoyment of reforms.

Major Graham Pole: Does not U Ba Pe think that it could be discussed as was suggested by Lord Winterton if you put down a statement once every year as used to be done when the India Estimates were put down in the House of Commons? If you adopted that procedure and had a full discussion the Burma Parliament could influence the Governor in his dealings with the backward areas. They

would be able to press upon him their ideas of how the backward areas could be improved, how there should be more schools, more roads, more railways, more anything else. In that way they could influence the Government until the time came when the Excluded Areas could be brought in with the rest of Burma.

U Ba Pe: The objection to that is that this statement would be made, as I understood, only once a year. The statement, as I understood, was to be only an annual one and if anything happened in the meantime we should have to sit with folded hands and could do nothing. If the statement were made every session that would be an improvement, but I understand the suggestion is that it should be only an annual statement, and in that case we could not do anything in the interval.

Lord Winterton: I only put forward an annual statement as a suggestion. I am not tied to the idea that it should be made annually. It might be made in each session. With every willingness to meet *U Ba Pe* I am afraid that there is a conflict of views between us. It does seem to me that he is rather seeking—although he denied that he was seeking—to divide functions, so to speak. I think the effect of the proposal would be to make it difficult to carry on the administration. I think, perhaps, there might be undue interference. I do not quite like to use that word interference because it has a rather offensive sound, so shall I say it might lead to undue interest being taken by the Legislature in matters for which they have no real responsibility. I think that, if you had an annual or a sessional statement which could be discussed, that is going a long way. I regard it as a concession from the point of view which I hold strongly, and I do not feel that I can go beyond that.

U Ni: I do not know exactly what it is that we are being called upon to discuss just now, but it seems to relate to certain matters on which I hold very strong views. The point which I wish to make is that, whoever it is who is put in charge of the area that person should be responsible as a Minister along with other members of the Cabinet. He must be a Minister in the Council. He ought not to be placed somewhere beyond the reach of the Council and the Governor. If he is going to administer these areas he must do so as a member of the Cabinet who will take his seat in the Council and be always ready to give information and to answer at all times when the Lower House is in session. I do not want to go too far now into a discussion on this question of executive responsibility, because we have not yet arrived at that stage, but I feel that I might be misunderstood if I did not say now that I hold a strong view on this particular point. This matter should be in the hands of a Minister who will take his seat with other Ministers. He may be responsible to the Governor because it may be that the time has not yet come for the administration to be in the hands of a Burman Minister.

Chairman: You are in fact differing from the other statements. You say that the Excluded Areas, though they would not send representatives to the Assembly, should nevertheless be under the control—complete control, I understand you to say—of the Assembly and of the Minister, and that that Minister would be exactly on a par with other Ministers; he would in fact control what we call the Excluded Areas. That is what you mean, is it not?

U Ni: There is only one point, on which I do not want to touch at present. You have referred, My Lord, to a Minister under the control of the Assembly.

Chairman: Let us say a Minister responsible to the Assembly.

U Ni: I do think I need go so far as to define his responsibility, though I have definite views on that. I will say he is a person who will be the Minister in charge of this subject, perhaps along with other subjects, or perhaps by itself, but he will be there in the Council always ready to give information and accept responsibility.

Major Graham Pole: But you do see the possibility of this Minister not being responsible for his duties to the Assembly, but directly to the Governor?

U Ni: I do not think I am called on to go far as that.

Major Graham Pole: But it is a possibility?

U Ni: It may be quite possible.

Chairman: I am sorry; I am afraid I did not catch your last point.

Major Graham Pole: I asked if he saw the possibility of this Minister, though he would be in the Assembly, not being responsible for his duties to the Assembly but direct to the Governor.

U Ni: Quite.

Major Graham Pole: That is a possibility which he admits.

Chairman: I am not quite sure about one point. Does he want questions relating to the administration of these Excluded Areas to be discussed in the Assembly with precisely the same freedom as any other subjects?

U Ni: I think so, My Lord. Why should the subject be left out when we are allowed to discuss all the other subjects, including the imposition of taxes, and so on. I do not think any harm could be done by allowing this subject to be debated in the House.

Chairman: Although there are no representatives of those areas in the Assembly?

U Ni: But there will be somebody in charge of that department there. There must be, and he will be a Minister. As I have just stated, I do not think I should go so far as to define his ultimate responsibility at present, but he must be a responsible Minister. At any rate, he will have to be able to answer all the questions which may be put and to shoulder the responsibility with which he is charged. He must not be kept behind a screen, but must be brought forward before the House so that questions can be put to him.

Chairman: To whom is he to be responsible?

U Ni: I do not think Your Lordship should press me to answer that point at the moment.

Chairman: I do not wish to press you, but it is made a little difficult to understand.

U Ni: If your Lordship thinks we might discuss this point fully now—

Chairman: I only asked the question to make the thing clear.

U Ni: If it is possible for me to finish my speech at this point without going to that length I should like to do so.

Chairman: By all means. I want to put forward this point. It is one of the first principles of administration that the limits of responsibility should be very clearly defined, and that if anybody is responsible for any series of subjects he really should be held responsible for them. I was in some difficulty in trying to see how that clear line of demarcation should be established, because, of course, if you were to have discussions on these subjects on exactly the same basis as if they were ordinary subjects dealt with by the Assembly it would be rather difficult to keep the responsibility of the Governor clear. Again, if questions could be asked in the regular course of things about the Excluded Areas, inevitably, it seems to me, you would be bound to transfer a good deal of responsibility to the Assembly, and you would have two bodies responsible for the same thing. In fact, you would blur the responsibility. I understand a sort of compromise was suggested, that there should be a general discussion once a year or once a session, which would give the Assembly the opportunity of knowing what was going on from an official source, and, in the course of discussion of making any suggestions they chose. I should have thought that would, to some extent, keep the question of responsibility more clear than if the subject was open, as it were, to the Assembly on the same terms as anything else. But I daresay I shall hear views on that point.

Mr. Hall: Would it satisfy our friends if the question of the Excluded Areas came up for review periodically, say at three years or five years, when it might be suggested that there had been some improvement and the districts were then becoming ripe for self-government or ought to be brought within the Legislature of Burma?

U Ba Pe: The difficulty is, that we feel that if the question of these districts being fit for self-government were left to the Governor it would take a longer time than if we did it ourselves.

Mr. Hall: Surely some progress has been made in the Excluded Areas as a result of measures taken by the Governor?

U Ba Pe: If it is the intention to expedite the fitness of these people for reform, measures will be taken to that end, but if the idea is simply to leave them, it might take a long time before they were judged fit for self-government.

Lord Winterton: If in addition to the suggestion I have made, Mr. Hall's proposal for review at a five year period were accepted, would you not be able to put perfectly legitimate and reasonable pressure in the Assembly to bring about the state of affairs you desire? That is to say, you would be able after the statement to ask questions and say: "Why has a school not been put up here"? or "a road here," or something of that kind. In that way would not the pressure of public opinion be exercised? That is the only way in which it can be exercised; because if you are going to exclude the areas and they are going to be under the Governor, they are, so to speak, Excluded Areas; but you could exercise pressure in that way to get an improvement.

U Ba Pe: May I make the position clear in that case? Looking through the list of areas we see their value as forests, mines, and so on. If we have no say in that matter, the development will be done by the Governor without reference to the wishes of country.

Sir O. de Glanville : My Lord, may I point out again what the Statutory Commission has said, which I believe, from my knowledge of Burma, to be perfectly true, that these people have evinced no desire to be linked with the Burmans; and until those people express the desire, I suggest they ought not to be linked with the Burmans. I understand the Burmese view is that they want to prepare them educationally, and so on, for democratic Government. When they arrive at that state they may still evince the same disinclination to be linked with Burma; and are we going to compel them to join Burma?

U Ba Pe : It is not a question of compelling. We are asked to bear the expense for maintaining those areas; and then when it comes to the development of those areas the suggestion is that we should have no say in the matter. That appears to be rather one-sided. We are asked to meet the expenditure for the administration of those areas, and then we are told we are not to have any say in the matter. That is rather absurd, is it not?

U Ni : There is one thing I am sure we all would not like : Not only this subject but all other subjects to be administered by the Governor with an official who is solely responsible to the Governor. This sort of thing will never lead to full-fledged responsible government. It will be locked up in a sort of watertight compartment, not open to the purview of the Council. I could not agree to any proposal which would have this effect, namely, of administering a certain subject by means of an official who is solely responsible to the Governor.

U Maung Gye : My Lord, one point seems to have been overlooked. That is, the people who are living in these Excluded Areas are not different from the people of Burma. Take the case of the Chins. In appearance they are like the Burmans and most of them profess the Buddhist religion. Once they come down to the plains they mix very well with the Burmese people, and we have at this date many Chins holding high offices in Burma. So that if we build roads in these Excluded Areas they will be brought within the pale of civilisation and in time they will be fit for responsible self-government. Their progress will depend on whether they are brought into contact with Burma or not. If you exclude them from the Burmese administration, then they will be isolated; they will be segregated; they will be cut off entirely from the influence of the Burmese people. That being so, I do not see why they should be kept apart from the Burmese people for all time, or until the Governor or the Secretary of State for India chooses to think they are fit for self-government. Some of these Excluded Areas are in the heart of the country. I believe they are all within the borders of Burma. I do not see why slices of our country should be cut off and governed by the Governor without the assistance of responsible Ministers. I do not think, personally, that the Governor is in a better position to govern these tracts than Ministers responsible to the Legislature.

Major Graham Pole : Would you mind telling me how long it takes to travel through from Rangoon to the Chindwin?

U Maung Gye : Three or four days.

Chairman : I should like to ask Mr. Maung Gye whether his argument applies only to the Chindwin District, or whether it applies to the other districts as well.

U Maung Gyee : I was taking Chindwin only as an example.

Chairman : I was not quite clear whether you were taking it as an example where you thought an exception might be made or whether you wished to include all these seven territories under the administration of the Burmese Government.

U Maung Gyee : My remarks apply more or less to the other tracts also.

Chairman : When you were specially dealing with the Chindwin you were not making an exception, but you took it merely as an example, did you?

U Maung Gyee : Yes.

U Tharrawaddy Maung Maung : As far as our experience goes, I do not think that these people are politically backward. There were over 300 Associations affiliated to U Chit Hlaing's General Council of Burmese Associations. After some time U Soe Thein went there and got all these people to join our General Council of Burmese Associations, so that we have had a little experience in that direction. I can say very definitely that politically, they are as far advanced as other parts of Burma, and therefore I do not think they should be excluded. If, however, you insist on excluding them, then I think we ought to have a definite time stated when they should be taken back with the rest of their country. We have had all these representatives coming to our General Conference which is held every year. They always come in large numbers. If they were really politically backward I do not think they would take the trouble to come down to these Conferences. My point is that they should not be excluded from the rest of the administration.

Chairman : What is the area you are speaking of now?

U Tharrawaddy Maung Maung : I am speaking of the inhabitants of Upper Chindwin.

Sir O. de Glanville : That is not in the area we have been discussing.

Chairman : I was just looking to see if that is one of the seven.

Major Graham Pole : It is not an Excluded Area.

Chairman : It is under the administration, is it?

Major Graham Pole : I understand that it was notified a month before we came here that this was not in the Excluded Area, but in the Reform area.

Chairman : Yes, I think that is so.

Mr. Ohn Ghine : I feel very strongly that, from the beginning of the new Reforms, all the various races in Burma should be brought into the scheme generally. If they are left out I am afraid that that will encourage a feeling on the part of these various races that they do not belong to the same nation. It might be difficult, later on, to effect the unification of the various races.

I really see no reason why these tracts should be excluded from the policy and administration of the new government.

Major Graham Pole : Do you mean by representative Government?

Mr. Ohn Ghine : Not necessarily at the start.

Major Graham Pole : May I ask if they have any kind of representative government in the villages at present, or district councils, or anything of that kind in these areas?

U Ba Pe : All these areas are excluded from local self-government and from the operation of the Reforms at present.

Chairman : The discussion, I understand, is over as far as the Delegates are concerned. Here again of course, I am afraid I shall have to report a considerable difference of opinion, because opinions have been expressed, for instance, that although the areas should be excluded, yet the Assembly, and I suppose the Upper House, should have a certain power of discussing these subjects and of asking questions with regard to them. Others take the view that they should be wholly under the administration of the Burma Government and Burma Ministers, although they should not have representation at present. In one case, I think, one of the speakers stated that he reserved his opinion as to the sense in which the Minister who governed these areas, as it were, should be responsible to the Assembly, and to what extent he should be so responsible.

I do not see what more I can do than report those expressions of opinion and try to give full value to them in the Report. I think I can say no more than that there is that difference of opinion. I think we have discussed the different points of view fairly fully, and a full note must, of course, be taken of the different suggestions which have been made.

(The Committee adjourned at 4-35 p.m.)

**Proceedings of the Eighth Meeting of the Committee of the
Whole Conference, held on Wednesday, the 16th December,
1931, at 11-15 a.m.**

**DISCUSSION ON THE STATEMENT MADE BY THE CHAIRMAN ON FRIDAY,
THE 11TH DECEMBER, 1931.**

U Ba Pe : My Lord, on behalf of my colleagues I wish to make the following observations with regard to the statement made by Your Lordship at the close of the session on Friday last. We have carefully considered and weighed the contents of the statement, and are of opinion that they are intended to convey to us that the Prime Minister's announcement in regard to India made on 19th January, and repeated on December 1st of this year, is applicable to Burma. I would state that the formula applied to India was responsible self-government, subject to necessary safeguards and reservations in India's interests during the transitional period. We request that you would now state whether our interpretation of your statement is correct or not.

Chairman : There seems to have been some misunderstanding regarding the interpretation of my announcement of Friday last. This is shown, I think, by the question that U Ba Pe has just put to me, and I also had some other evidence of that fact in the statement that was read by U Chit Hlaing on Monday. My intention was merely to

define for the guidance of the Committee, what appeared to be the field of useful discussion. In a nutshell, I consider that the object of this Conference is to frame a constitution embodying responsible government in the Central as well as the Provincial matters, subject to reservations and safeguards, the main point of which I set out in my statement on Friday evening. I trust that we shall have the help of all the Delegates in framing a constitution on these lines. I should like, if I may, to add one general observation. That is this: There is no doubt, an admirable virtue in forming opinions and in standing by them. On the other hand there is also virtue, I think, in weighing up the views of others and possibly modifying one's own opinions in the light of discussions that have taken place. I rather commend, if I may respectfully do so, to the Delegates the virtues of compromise. Compromise is a very difficult art I know; but it does lie at the base, not only of democratic government, but of Parliamentary institutions. I think I have not seen a very great emergence of that particular virtue during some of the discussions that we have had. I would urge my fellow Delegates to meditate on the virtues of compromise, and possibly to put some of those virtues into active execution during the course of our discussions. I hope after that statement I have made—

U Ba Pe: But you have not answered my question, My Lord. I want to know whether the Declaration of the Prime Minister is applicable to Burma or not.

Chairman: Well, I think I had better leave the statement as it is. I think it quite clearly answers the points that you have raised and meets the general desire for a framework of discussion.

U Ba Pe: No, My Lord, my question is whether you are going to apply the—

Chairman: Well, I have given my answer, U Ba Pe.

U Ba Pe: Very well, My Lord. Then I am sorry to hear that; I am very much disappointed with the answer, because the suggestion contained in your statement falls short of the Prime Minister's Declaration, and I am afraid, My Lord, as far as the Delegates on this side of the Conference are concerned, they will find it very difficult to co-operate from to-day.

Chairman: In what respect do you say that it falls short of the Prime Minister's Declaration?

U Ba Pe: The Prime Minister's Declaration is definite that India is to have responsible self-government, with certain safeguards and reservations in only one or two matters; that is, External Relations, Defence and financial stability, I think. Beyond that the other subjects are to be transferred to popular control. That is the meaning of the statement made by the Prime Minister.

Chairman: Yes, but I want to be quite clear what you want. As to the exact subjects which may be reserved or not we shall hear views expressed in the course of the discussion. We are here to get the largest measure of agreement that we possibly can on these subjects. I want to know exactly what you mean. I should have thought that was the best way of proceeding. Are you asking that the Government should now lay down once for all what are the exact lines of the constitution—because, if so, are you not asking the Government to give

a final decision before they have heard the views of the Delegates on these points?

U Ba Pe: I want definitely to know whether the principle underlying that Declaration is applicable to Burma or not.

Chairman: I am not quite sure what you mean by the principles underlying that. I have said that the object of the Conference is to frame a constitution embodying self-government in Central as well as Provincial matters, subject to reservations and safeguards which we have to discuss. I do not know what more can be said than that our object is to frame a constitution embodying responsible Government, not only in Provincial affairs but also in Central affairs, subject to certain reservations and safeguards which I have outlined.

U Ba Pe: Because in your statement the list of examples given was not exhaustive: it may be extended to cover the whole of the Central subjects. If that was not the intention, there is nothing to prevent you saying: "No, the reservations and the safeguards will be confined as in the case of India to one or two subjects." That would clear the whole field.

Chairman: I think, as regards the statement, it is rather for the Government than for me to say exactly what is the final result of our discussions. But do I understand that you do not even want to discuss what the reservations and safeguards should be? Here we are, in a free Conference in which you are able to express your opinion perfectly freely on all these subjects. You are asking me in this Conference to say definitely beforehand what the views of the Government are on the specific safeguards. Now, that would, in my judgment, make the Conference nugatory, because what would be the use of discussing these matters after we had heard from the Government precisely and exactly what they wanted to do? The Government wants to wait until it has heard your views and then, of course, it will have to pronounce its point of view.

U Ba Pe: Unfortunately that is not the position. We joined in the discussions in this Conference on the assumption that Burma is going to have responsible self-government, with safeguards, if necessary. On that basis we have been discussing for so many days, and then you made your statement, which statement, according to our interpretation, means that you are going back to the 1917 declaration and not that of 1931. That is the reason I ask whether or not the 1931 declaration made by the Prime Minister is applicable to Burma. A straight answer would be "yes" or "no," but we have not received this answer up to the present.

Chairman: I can only say that if you declare that we are going back to what we call the 1917 Declaration, you are mistaken, and you are placing a wrong interpretation upon what I have said. How can I, as Chairman, say exactly what the safeguards or reserved subjects may or may not be as the result of the discussion? Here you are: you are perfectly free to say exactly what you want on all these subjects. If you do not wish to express your opinions—well, the Government anyhow gives you full opportunity to say so. But I want to be quite clear. Do you still say that you do not want to do that, but that you want, before you express your views, that the Government should

lay down exactly and precisely what its own view may be as to the Constitution to be framed for Burma?

U Ba Pe : Yes; but you can surely say the principle will be the same.

Mr. Wardlaw-Milne : On this point that has been raised I want to dissent very strongly from what has been said by *U Ba Pe*. I should consider that I had been called here entirely on false pretences, and was wasting my time, if the Government are going to declare at once what they are going to do without consulting the Conference. What would then be the use of the Conference at all? The object of the Conference is presumably to put certain views before the Government after discussion. We have had a declaration from the Chairman as to the lines on which it is probable that the Government would accept recommendations, and it seems to me incomprehensible that now the Conference should suddenly ask for a definite declaration as to what the Government's final policy is to be. With very great respect, it is not entirely in the hands of the Government. The whole question is one with which Parliament will have a great deal to do, and I certainly do not want to sit here with the idea that I am going to put up recommendations to which the Government is going to pay no attention because they have already made up their minds. We have had a very clear declaration on the lines on which we should proceed which will probably be acceptable, and on the definite safeguards that the Government will probably require. Even that is only an expression of opinion at this stage. I certainly do not think that we can expect the Government to go further.

Lord Lothian : My Lord, I do not know whether it is possible for me to clear the air a little in this matter, because there is, quite patently, a misunderstanding which has no foundation in fact. The view as put forward by the Chairman, and I think I may say as held by the Government, is that the principle of the declaration of January 19th made by the Prime Minister to the Indian Round Table Conference, at which certain Burmese representatives were present, applies to the future Constitution of Burma. That is quite clearly implied and intended by the statements made by the Chairman last Friday and again to-day.

What remains, therefore, is to have a discussion, before the Government finally makes up its mind, on the question of safeguards and reservations, and it is about that that we should like to have a full discussion and hear the views from all sides of the table as to the exact character which those safeguards and reservations should take.

The general outline of those safeguards and reservations was quite clearly set forth in the statement made by the Chairman last Friday, and I hope, therefore, the Conference will be able to proceed to discuss those matters on the basis of the agenda which still lies before it.

U Ba Pe : If it is clearly understood that the principle underlying the declaration of the 19th January, repeated on the 1st December this year, applies to Burma, I am satisfied.

Lord Lothian : That is what I said.

Chairman : I am glad if *U Ba Pe* now thinks it is clear.

U Ba Pe : Yes, if what Lord Lothian said is correct.

Chairman: I notice that our friends Tharrawaddy U Pu, U Chit Hlaing and U Tun Aung Gyaw are absent.

U Ni: I am sure that my friends will be glad to hear what you have said.

Chairman: Are you speaking for them at the present moment?

U Ni: Not for them; I am merely expressing my opinion.

Chairman: Well, perhaps we shall have their views at a later stage.

HEAD 7.

DEFENCE.

The following points for discussion in connection with this Head were drafted by the Chairman:—

(i) *Control of arrangements for defence.*

(ii) *Possibility of building up an indigenously recruited local defence force.*

(iii) *Retention of Indian troops for the present.*

Dr. Thein Maung: My Lord, I will now say something about the defence of Burma. The defence of Burma, My Lord, is very important, because with that question is bound up the question of the freedom of Burma. Indeed, it will be the acid test of the sincerity of the British Government—how much control the people of the country will have over Defence.

The position, My Lord, is very simple, and with a view to stating it clearly I have here a globe, and I hope I may be excused if I take the rôle of school-master now. My Lord, it is very unfortunate that most of the Delegates know very little about Burma. I mean most of the British Delegates. Moreover, some of the other Delegates, though they come from Burma, know only Rangoon; they do not know much of Burma as a whole. They spend their time in Rangoon making money. They spend their time in Rangoon, and thus their knowledge of Burma as a whole is very meagre.

Burma, My Lord, lies geographically between two big countries, India and China. Though it lies between two big countries, the problem of defence is very simple. In considering the defence of Burma, the first step must be to examine her position from the maritime point of view. Burma, My Lord, is situated far to the north of the main sea routes, and thus big naval operations cannot take place in the neighbourhood of Burma, and therefore, Burma need not have any fear of naval aggression. Any enemy upon the seas must come either through the Suez Canal or, if they come from the east, through the Straits of Malacca, and both are strongly guarded by the British Navy, so that, so long as the British Navy is supreme, Burma is safe.

I think that Burma does not need a special navy to protect her.

Coming to the land frontiers, towards the north-west there is India, so we can have no fear of military invasion from that quarter. India and ourselves will be sister Dominions. Towards the north and the east no doubt there is some danger of aggression from China, but, My Lord, China is a member of the League of Nations, and so China will not think of invading a small state. China herself is more in danger than Burma, because her other neighbour, Japan, is now

very strong. China is busy protecting herself against Japanese invasion. For the next twenty or thirty years China will be busy simply putting her house in order, so that we need not have any great fear on that side. Taking the worst point of view, and supposing China to be strong and aggressive, it would not be an easy task for China to invade Burma. If the Delegates will carefully study the map they will find that towards the north of Burma there are huge mountains which would prevent the onset of an invading force.

A competent military writer, writing about the probable invasion of Burma by China, states that there are natural difficulties which in themselves form an obstacle for large forces operating from China, and by the time these could be overcome, Burma would be well guarded by Imperial forces.

Therefore, My Lord, there is no danger of foreign aggression. So far, the work of the Army in Burma has been limited to two functions, namely, policing the frontier and maintaining internal security. The Army strength in Burma in 1930 consisted of one battalion of mounted infantry, one field company of sappers and miners, two battalions of British infantry, three battalions of Indian infantry, one battalion of Indian pioneers, and nine battalions of military police. Most of the Army in Burma is composed of the military police who are busy guarding the frontier only. Therefore if we are separated from India we need not have more troops than there are at present.

The next question is: How are we to get our own Army? So far, unfortunately, the Indian Government has not given much chance to the Burmans to join the Army. During the War the Burmans asked for a chance to join, and there were five battalions of Burma Rifles, and Sappers and Miners Companies, and a Labour Corps. Most of them saw service in Arabia, Egypt and Europe. Unfortunately, My Lord, when they had finished their work and the War was over they were discharged, and at present we have only three companies composed of Karens, Chins and Shans.

Mr. Loo-Nee: Kachins.

Dr. Thein Maung: During the War, also, they did yeoman service. At one time the Commandant, Major S. W. Bushell, wrote to U Maung Maung Bya, who was responsible for getting recruits for the Army. Major Bushell wrote: "I feel I can honestly assure you that the Burman has fully made out his claim to rank, both as a Sapper and as a fighting man, with any troops that the Empire can produce." That, My Lord, was the testimony given by the officer in charge of the Burma troops. That shows that the Burmans are willing to join the Army. Thus, if we open the Army to the Burmese people, there will be no lack of recruits. That the Burmese are a martial race and have been in the past, has also been admitted by most writers of Burmese history. I would therefore suggest that the people of Burma be given a chance to have a say in the management of the Army with the advance of the future reforms, and that the strength of the Army be not raised.

Chairman: Do you mean from the present number of the combined British and Indian troops in Burma?

Dr. Thein Maung: Yes, and that the Indian troops be replaced by Burman troops by bringing up the Burmese to join the Army, and that the expenditure be limited. In Ceylon the Army expenditure for

1927-28 was only 1.5 per cent. of the total expenditure. Burma's expenditure should not exceed 2 per cent.

Major Graham Pole : May I just ask a question? When you say the strength of the Army should not be raised above the present strength, the present strength in Burma is a good deal in excess of the normal strength, is it not?

Do you mean the normal strength?

Dr. Thein Maung : Yes.

Chairman : Oh, yes, I think so.

Major Graham Pole : Because the normal strength would not be able to cope with the present difficulties, would it?

Dr. Thein Maung : Oh, yes. Of course, at present, on account of the so-called rebellion in Burma some troops have been brought from India, but I can assure Major Graham Pole that these troops are doing nothing in Burma. They do not go to the jungles where the rebels are. I know it, because I come from that area and I have seen what they are doing with my own eyes.

Chairman : You do not believe in the moral effect of their being there?

Dr. Thein Maung : No, the improvement has been brought about by the priests, by what is called the peace mission of the pongyis, who went about preaching and doing certain relief work; and, My Lord, incidentally I may mention that when a person is hungry he will think of evil things, and that when the stomach of a person is full he does not care to fight.

Sir O. de Glanville : May I ask Dr. Thein Maung whether he has read the reports from Burma that the Dacoit or rebellion leaders are advising their followers to hide their arms as they cannot carry on the rebellion successfully in consequence of the number of troops about?

Dr. Thein Maung : I have read that piece of news, but I think it is more the invention of the Government than the real fact. The Government in the East, My Lord, invents many things which are not true.

As I stated at the outset, My Lord, we want control over the Army, and I hope due provision will be made for the people of the country to have a say in the matter.

Coming to the question of expense, My Lord, there is general complaint now of excessive military expenditure, and I hope that this will not be repeated in Burma.

After all, it is well to remember that a country cannot be perpetually governed by armed forces. The Government of a country can last longer when it gets the consent of the governed and when there is good will between the governed and the Government. Although there may be an Army, so long as the Government does not meet with the wishes of the people there will always be trouble. Of this there can be no better example than the case of Ireland. The history of Ireland and of the Army occupation of Ireland is too well-known to be dilated upon. When people are determined to obtain their freedom and are prepared to give up their lives for the sake of freedom, no Army, however strong, can hold them back.

In conclusion, My Lord, I know that fear has been expressed that a sufficient number of Burmese will not join the Army. I am sure

this fear is due to ignorance of the real sentiment of the people of Burma. So far as we are concerned, if we have a say in the matter we are prepared to go even to the extent of having conscription, so that all Burmese will join the Army.

Chairman : You would have conscription?

Dr. Thein Maung : Yes.

Chairman : I want to be clear about this. Are you advising conscription for Burma?

Dr. Thein Maung : No, but I say that if we have the control of the Army we are prepared to introduce compulsory service in Burma.

Chairman : I see.

Dr. Thein Maung : Last year, in spite of all the handicaps in the way, we raised volunteers in Rangoon. My friend U Maung Gye was the chief sponsor of this movement, and there was no lack of response; in fact, on one day within a short time I was called upon to examine over 150 volunteers to ascertain whether or not they were medically fit, and there was such a rush that I had to postpone the examination of some until the next day.

U Su : We have at present twenty thousand national volunteers.

Major Graham Pole : These are not military volunteers?

Dr. Thein Maung : No; but they have to undergo the same amount of physical training and discipline. They live out in camps, and have route marches and other training, but, of course, we have no arms.

I hope I have made myself quite clear with regard to what we want about the Army, and that the members of the British Delegation will not grudge us the privilege for which we ask.

Lord Winterton : I think Dr. Thein Maung has put the case from his point of view in a very reasonable and restrained manner. I do not agree with everything that he said, but I listened with great interest to his speech, and I would like to make one or two comments on it. He said that the problem of Defence in Burma was comparatively simple. We should all agree on this side of the table that, as compared with India or with some other countries, it is comparatively simple. But he also said that one must consider it primarily from the maritime standpoint, and that Burma was off the main sea routes, and so had no need to fear naval aggression. I do not think the fact that a country is off the main sea routes makes it any the less liable to naval aggression if it is a rich country to plunder. But he went on to say that so long as the British Navy is supreme, Burma is safe. With that I am in entire agreement. That is also true of Canada, Australia, and many other countries. As to whether the British Navy is supreme at the present moment, I do not propose to enter into a discussion, because it would be out of order in our present proceedings. But it is a valuable admission to have had from Dr. Thein Maung. Unquestionably, so long as the British Navy occupies the position it does in the Indian Ocean and the Bay of Bengal, Burma is reasonably safe from naval aggression. I hope everyone from Burma will consider sympathetically in future that point of view. The taxpayers of this country have to bear what I consider frankly is a disproportionate amount of the cost of policing the seas of the world with the Navy, and I am quite sure—I observe the nodding of heads

among the Delegates on my left—that a self-governing Burma will consider sympathetically that side of the question.

Dr. Thein Maung : Yes.

Lord Winterton : Well, that is a very satisfactory promise, at any rate to consider the matter sympathetically. Then *Dr. Thein Maung* went on to consider the military problem; and he said—I have no doubt quite truly—that one had to consider it in respect of the Northern and Eastern Frontiers. He said that there was not much danger that China would invade Burma, because she is a Member of the League of Nations and would not be likely to invade any small nation. Well, I do not know whether that is so or not. I do not want to say anything which would be out of order and might be wounding to the League of Nations or to the attitude of members of the League of Nations in regard to other nations. But what he did say—and I entirely agree with it—is that the danger from China, even if China were prepared to invade the country, which I think is not the case, is not very great in the next few years because of the state of China, and certainly not with any modern army. He did not, however, mention the possibility of aeroplanes. He was, of course, talking at the moment of ground forces. Of course with the improvement of aeroplanes there is always a possibility that a country with a large land frontier like Burma might be liable to aggressive action from neighbouring territories outside the British Empire. We hope that such a state of affairs will not arise, but we have to remember that as well as the question of ground forces.

He then went on to say that if there was unhappily—which he and I regard as unlikely—any invasion by ground forces on a considerable scale, it would be possible to assemble Imperial Forces. I want to say a word or two about that, because here a very important question of principle comes up. I want to make it clear at the outset that like the last speaker, I do not anticipate that such a state of things will arise; but, supposing it does arise, it is perfectly true it would be possible within a certain amount of time to assemble Imperial Forces. But one has to consider the question of cost and the question of allocation of the cost between the tax-payers of the Empire, assuming a self-governing India and a self-governing Burma. Now I say this quite as much to the European representatives from Burma as I do to the Burman Delegates. If they will look at the matter, as I am sure they will, fairly, they will see that this point arises: if each part of the Empire were to say “We do not require more than X number of troops, because if any trouble arises we can assemble Imperial Forces from elsewhere” it means that unless they are prepared to pay the cost of those Imperial Forces, a disproportionate burden is placed upon the tax-payers of the United Kingdom. That must be obvious. I hold the view very strongly that where forces from other countries, either from India or from Great Britain, are stationed in any country, not only should the taxpayers of that country be prepared to pay for them, but they should be prepared to look upon that payment, not so much from the point of view of anything that is likely to arise, not so much even from the point of view of internal security, but from the point of view of a situation which in *Dr. Thein Maung's* words, might possibly arise; in other words, that they should be prepared to bear the fair cost. I am not laying

down any figure of the cost. They should be prepared to bear the cost of supporting these forces in peace time so that they may be available in war time, in what we all regard as the remote possibility that war on a major scale may arise.

A very important principle is at issue there. This applies to every government of the Empire; it does not matter whether it is the Government of India under present conditions or a self-governing India, the Government of Burma under present conditions or a self-governing Burma. Naturally the pull is on the part of the Government to avoid as far as possible—it is only human nature—having to bear the burden of supporting the troops. It all comes back to this, in the slang phrase that we have, that Great Britain has to “hold the baby all the time”; in other words, to find the money. Unquestionably the time will come, sooner or later, when there will have to be a fairer proportion of the defence of the Empire borne by the Empire as a whole. Personally, I consider the political parties in this country—and I say this of all political parties in this country—have often been far too timid in putting that question to the other governments of the Empire. Again I only ask—and I am sure I shall have it—for sympathetic consideration of that point from the Delegates from Burma representing all the different races who are here, when Burma has, as we hope she will have, her new status.

The next question which Dr. Thein Maung dealt with was the question of local forces, and in principle I would like to express my sympathy with the views that he put forward. I certainly think, and I am sure that all of us think, that reasonable opportunity should be given to Burma to raise forces from among her own people. I do not know—I have not sufficient knowledge to know—whether it is true, as the last speaker seemed to suggest, that Burma has not been treated fairly in this matter in the past—namely, that troops have been disbanded who might have been retained and have been replaced by other troops. I express no opinion on that, but presumably a Burma Governor, assuming that he was responsible for defence, would be likely to be more favourable to that point of view than the Government of India, who are less concerned in the matter and look at it, possibly, from a different point of view; but I do not believe anyone on this side of the table would have any objection in principle to the views put forward that opportunities should be given to raise local forces.

Then the last speaker went on to say that the strength of all the armed forces in Burma, which would include British, Indian and Burmese, should not be above the normal strength at the present time, and, in reply to a question put by my friend Major Graham Pole, he said that of course he was not referring to the abnormal conditions prevailing at this moment. Well, there again I do not think it is necessary to lay it down by statute, and I do not know that it is even a question that could be usefully discussed at any length in this Conference, but I should not suppose it would be necessary to have more armed forces in Burma than are there at the present time; it might even be possible to reduce the number.

I was very interested to hear one thing, which I am sure was said in all good faith—and I have no doubt that he could fulfil his undertaking—on the subject of conscription. He said that if Burma had complete self-government they were prepared to introduce conscription.

I suppose their representative at the League of Nations would have to explain that they had fallen in line with other countries and adopted conscription. I do not know what would happen if this Disarmament Conference, about which we hear so much, decides that conscription in itself is a bad thing in every country. In that case I do not suppose it would be possible to carry out the project of having conscription, but it was very interesting to hear what Dr. Thein Maung said on that subject. Speaking generally, I would like to say that, while I do not want to be taken as being in agreement with everything that the last speaker said, I think, if he will allow me to say so, he has, at any rate, introduced the subject on a reasonable basis for discussion, and I should like to be taken as expressing sympathy with his views in the particulars which I have mentioned.

U Su: During the Great War the British Empire was subjected to various acts of aggression. According to the present ideas of leaders of modern thought, they are very anxious as to whether a sea Empire like the British Empire could withstand another war, and they suggest that land Empires only, like America, Russia or China, could withstand another war. I understand that the British Government is also mobilising a great amount of forces for the protection of the Empire, and, if that is so, we Burmese ought to be given military training. The younger men ought to have military training as they have in England and in Germany, so that in the event of another war we might be able to face the trouble and to protect our country's frontiers.

Mr. Campagnac: My Lord, I rather favour the view that we should have conscription in Burma, because in Burma we have four idle months between April and July. During that time the cultivators are not doing anything and some of them get into mischief and commit dacoities, and I think men who are fond of adventure, such as the men who commit dacoities, would undoubtedly make good material for soldiers. I think that it would not be at all a bad thing to introduce conscription in Burma.

Burma has not been properly treated in military matters by the Government of India, and quite recently a body of Sappers and Miners which had been in existence for about half a century was disbanded, in spite of the protests of the Burma Legislative Council and the Governor of Burma and the united protests of the Burmese nation. They were disbanded simply because the Indian Government thought it would be cheaper to retain an Indian corps. If we do get separation, as most of us hope that we shall, that sort of thing will not be able to happen.

I should like to say that, so far as my own community is concerned, we are part of the people of Burma, and practically every man is trained to arms. We should be able to provide some regiments, and, in addition, we could train Burmese soldiers perhaps better than Britishers would be able to do, because we speak the language, know the people and we know their customs. Burmese troops should not be trained on the lines of Indian troops; there is a radical difference in mode of life and customs and manners between Burmans and Indians. One great difficulty has been that there has been introduced into Burma an Indian Commissariat. The Burmese troops are not able to eat the food the Indians eat. The Indian sepoy lives, on

wheat, but the main food of the Burman is rice. The Indian soldier does not know what Ngapi is, whereas no Burman soldier could live without it; it is like bacon to the Englishman.

Under different conditions you would be able to have Burmese regiments who would do very good service and probably reduce the great body of crime we now have in the country.

Major Graham Pole: Would you begin with regiments of dacoits?

Mr. Campagnac: I would; they would be splendid soldiers.

U Ni: I should like to say that I was very glad to hear the remarks of Lord Winterton, whose views we always regard with great respect. Dr. Thein Maung has given a short sketch of what the nation thinks should be done with regard to this question of Defence. I should like to say that as regards the material for our future Army, the men, we have good material available. I do not want to depict any portion of our history in glowing terms, but I would remark that during our wars against the British the records will bear out that, even at that time, our forces displayed good fighting qualities.

There are many other things I could say to show that we are quite capable of holding our own. I want to make it clear that at the time of which I am speaking there were men of sufficient general knowledge and education to be able to look after their country in this regard. During the last war I was stationed as an officer at a place through which all the Burmese troops leaving Burma for the front had to pass. I had to look after them in certain respects, and I had special opportunities of learning how these young recruits—some of them quite fresh—regarded the sort of life for which they had enlisted. They were thoroughly enjoying it, although they were about to leave their own country, and to go to a place which they had never seen before, and concerning which they had no particular notion. Therefore, I say that there is sufficient material to enable us to make our own Army for the future.

With regard to the point of conscription, I do not think it will be necessary to pass a law requiring everyone to join the army. So long as we allow the young men at a certain age to undergo a period of training, conscription will not be necessary.

Mr. Isaac Foot: The matter of conscription is not one for us at this table, is it?

U Ni: I do not think so. I have mentioned the point merely because it was mentioned by my friend, Dr. Thein Maung.

Another matter to which I ought to allude is the Air Force. I do not suggest that it constitutes a source of danger to us, but I might point out that Siam is building a big aerodrome and constituting an Air Force. I never contemplate any difficulty arising from that quarter, but it is just as well to bear in mind, when we approach this question of Defence, that we ought not to be found lagging behind in matters relating to the Air Force. Interest has been considerably aroused in Burma with regard to this question of training for Air Service, and aero clubs and so forth have been established. There are people who are taking a special interest in this matter, and have gone even so far as to raise funds for that purpose.

We shall have to consider, as was said by my friend Dr. Thein Maung, how the responsibility for Defence is to be handed over and discharged under the new constitution. Certainly the responsibility must be in the hands of a Burmese Minister, who will be sitting, as I have said, in the Cabinet. I think it is necessary that he should be of Cabinet rank, and, of course, he will have his own advisers, who will be most probably I should say, British military experts. Then there is the question of cost. I do not know whether we are at present called upon to consider that. But I can say this much, that we shall not be using things without paying for them. We must pay for them if we want to make use of them.

Chairman: I want to be quite clear upon this. At present, of course, you have Indian troops and British troops in Burma. You say you want the Defence troops, including the British, to be placed under a Minister responsible to the Legislature, do you?

U Ni: Yes.

Chairman: We have been talking about comparisons in India. No such proposal was made as regards India. You are aware that you are putting forward a proposition which is quite outside anything that was dealt with in the Indian Conference. That is only by the way; but I want to be quite clear; are you proposing that British troops should be not under the Government but under the Minister responsible to the Legislature? That is one point I might ask you.

U Ni: That is what I have been stating.

Chairman: That is what you are stating?

U Ni: Yes. I can foresee that during the short period—I will not name the period—within which we may be able to raise a sufficient number of Burmese troops, we have to proceed on the assumption that there will be certain British troops.

Chairman: I want to be quite clear. Your proposal is definitely that—quite different from any suggestion in India—the British troops there should be definitely under the orders of the Minister responsible to the Legislature; and that the Minister, and not the Governor, should be responsible for them. Is that your proposal?

U Ni: Yes.

Mr. Wardlaw-Milne: Do I understand the proposal to be, that, supposing these Reforms were brought into operation at once, the British troops should immediately be put under a Minister responsible to the Legislature at this time—or does it mean that when, in fact, the whole responsibility for the Government of Burma will have passed over to a Legislature there; any British troops then remaining should be placed under the orders of the Minister responsible to the Legislature? Does the proposal mean that, or is it intended that it should come into operation at once?

U Ni: If we have to pay for it, and if the revenues of the country have to be used to keep an Army, that Minister must be responsible to the persons who pay.

Major Graham Pole: May I ask, does your proposal mean that immediately you get responsible self-government, the Army in Burma would immediately come under the Burma Legislature; or does it mean that when you get a Burman Army composed of Burmans who

could take the place of the British Army, and you could do without the British Army, then it should come under the Minister? They are two distinct points.

U Ni: I go on the assumption that we shall not be deprived of the assistance of the British experts. With that expert assistance I do not see, as I have stated, why it should not be entirely, right from the beginning, in the hands of the responsible Minister.

Chairman: I think it is quite clear; in fact two things are clear. One is this. I have been pressed a good deal to say—and so has the Government—as to whether, in principle, the Prime Minister's Statement applies to Burma. Now we ought to be quite clear about this—U Ni is himself perfectly clear—that the moment the new constitution is set up, the British and Indian troops should be under the direction of a Minister responsible to the Legislature. I only want to point out two things: that now we are travelling quite outside any statement or undertaking or promise or pledge given by the Prime Minister. You are perfectly at liberty to suggest it, but it is quite outside that and has not been suggested in the case of India. It may be that in the case of Burma it would be different. You are perfectly right to say anything you like, but just for guiding the discussion I want to be quite clear about this, because your statement is quite definite. I think, that you want, from the moment of the new Constitution, the whole responsibility for defence, for Indian troops and British troops, to be under the orders of a Minister responsible to the Legislature. I think I am right in my interpretation of your view?

U Ni: Yes.

Chairman: Now I want to ask another question. You cannot, of course, start with a new Army at once—we all know that—and until there is a trained and organised Burma Army, what about the Indian troops there? Do you want to retain them in Burma, or do you want to get rid of them at once, or do you want to make an arrangement with the Indian Government, and, if so, on certain terms, for their retention? You cannot answer specifically, but those are the kind of things to which I would like you to address yourself.

Lord Winterton: May I ask U Ni one question, which is of a entirely friendly nature. Following on what the Chairman said, has his attention been called to the fact that, if you are going to follow the analogy of the Indian Conference, a large number of Delegates who, I think it might be said, hold the same views in regard to Indian matters that he and his associates hold in regard to Burma matters, expressed quite clearly at that Conference, as I read the press reports—the Chairman will correct me if I am wrong—that they were prepared to see, for the transition period at any rate, the question of Defence not in the hands of the Legislature. In going beyond that at the Conference, if I may put it frankly to him, is he not making a settlement by agreement rather more difficult?

U Ni: I keep my mind quite open as to what should be done in order to reach the goal during the transition period, or whatever it may be called. I keep my mind quite open. I would be quite amenable to any reasonable suggestion.

Lord Winterton: That is important. That is what I desired to know.

U Ni: The question of cost might come in; but anyhow, we are quite prepared to go along with the British expert military advice.

Major Graham Pole: I think you are giving us what you think, from your point of view as a Burman, would be the ideal thing, but not necessarily what you would like to insist upon.

U Ni: I would not like to say that, but I am quite prepared to hear the other side.

Chairman: With regard to the Indian troops, could you deal with that point?

U Ni: Yes. I think that is a matter of technical detail which we can leave to the military experts who will go into the question later.

U Su: Lord Winterton has mentioned the case of India. In India most of the Indians do not want military control, because the Muslims are afraid that the Hindus might rule, whereas in Burma it is quite different.

Mr. Isaac Foot: Although there is a difference in India as compared with Burma—the two differences are that there is the communal question in India and there is the North-West Frontier problem, which is the governing military consideration in India—yet the circumstances otherwise are comparable, and I suppose it is not seriously contended that, during a transition period until a Burmese Army is built up, which is the proper ideal—for without self-defence there can never be any enduring system of self-government, and defence has to be in the hands of the Burmese people—control should be in the hands of a Minister. In the meantime, I suppose it will not be contended seriously that whilst British troops are there, and are the main factor in defence—and perhaps Indian troops as well, because of the difficulty of creating a Burmese Army—there can be responsibility in the hands of a Minister acting in association with his own Legislature. I suppose it will be generally agreed that during the transitional period the responsibility in these matters must rest with the Governor so long as British troops, and to some extent Indian troops, are necessary. I hope, My Lord, there will be no difference of opinion on that.

Chairman: If that point is generally agreed—

U Ba Pe: Which point, My Lord?

Chairman: That during this period, until Burma has troops of its own, the responsibility for defence will rest on the Governor and not on a Minister.

U Ba Pe: It is not agreed in that form; I have my own suggestions to make.

Chairman: Then will you please make them.

U Ba Pe: My Lord, in joining in the debate on the Defence question in Burma I do so with some diffidence, because I feel we are not supplied with the material for coming to a correct decision. In the first place, while we were in Burma we were told that a Committee had been set up to go into the question of the defence of Burma. We have no material before us showing what the decision of that Committee is. The notes supplied to us do not give much material for going thoroughly into the question.

I am struck by the observations made by Lord Winterton. I do not intend to deal with the naval aspect of Defence, because that is not an immediate issue in Burma, but the other aspect, that of the land forces, is of immediate importance. I shall deal only with the question of the land forces.

Lord Winterton pointed out that it is not fair that the British tax-payers alone should bear the burden whenever there is a crisis in the Empire. I am quite in agreement with him as far as the principle is concerned, but there is one point which I think I ought to mention. So long as Burma is not dependent on herself, so long as she does not enjoy self-government, for so long it is not fair for Burma to share in anything so far as this matter is concerned, because she has no say in the matter; the whole thing is run from Whitehall here in London. If Burma is going to enjoy responsible self-government she must have her Army and she must have control of the policy governing the defence of her country; and, in that case, it is up to her to bear her share in a crisis affecting the whole Empire.

There is another point. If Burma is attacked by China, Siam or Japan it will not be Burma that is attacked; Burma is a part of the Empire, and it is as a part of the Empire that Burma will be attacked. The interest, therefore, is not Burmese only, but British and Indian also; all of us are involved in it. Primarily the defence of Burma must fall on the Burmese people, but to enable them to undertake it they must have control of the policy in that connection; without control of the policy it will be very difficult for them to shoulder the responsibility.

I will now go into the matter so far as it was thrashed out in the Indian Round Table Conference. The principle there laid down is one to which I should like to refer. I have been at pains to read through the reports, and these are the notes which I have been able to pick up from the Report of the Defence sub-Committee and the Fourth Report of the Federal Structure Committee. The Defence sub-Committee, on January 15th, arrived at the following definite resolution:—

“ The sub-Committee consider that with the development of the new political structure in India, Defence must to an increasing extent be the concern of the Indian people and not of the British Government alone.”

Again, in the Fourth Report of the Federal Structure Committee, dated 27th November, it is stated:—

“ Our consideration of the question of Defence in its constitutional aspect is based on the principle enunciated in the Defence sub-Committee at the last Session, that the defence of India must to an increasing extent be the concern of the Indian people and not of the British Government alone.”

Again, in clause 5 of the Fourth Report of the Federal Structure Committee it is stated:—

“ The majority of the Committee therefore re-affirm the conclusion reached in the Committee at the last Session, that ‘ the assumption by India of all powers and responsibility which have hitherto rested in Parliament cannot be made at one step and that, during a period of transition, the Governor-General shall be

responsible for Defence, ' being assisted by a ' Minister ' of his own choice responsible to him and not to the Legislature."

In clause 6 of the same Report it is stated that:

" It is undeniable that there can be no diminution of such opportunities as the present Legislature possesses of discussing and through discussion influencing Defence administration."

It is also stated that:

" The Legislature would thus continue to be brought into the counsels of the administration in the discussion of such outstanding problems as the carrying out of the policy of Indianisation."

And:

" Further, there must be correlation of military and civil administration where the two spheres, as must sometimes inevitably be the case, are found to overlap."

To ensure the latter, it was suggested in the Committee that a body should be set up in India analogous to the Committee of Imperial Defence in Great Britain.

Again, in clause 7 of the Fourth Report of the Federal Structure Committee it is stated that:

" It was assumed that his (the ' Minister ' in charge of Defence) functions would roughly correspond to those of the Secretary of State for War in the United Kingdom."

Amongst the more important proposals made were the following:—

" (1) The ' Minister,' while primarily responsible to the Governor-General, should, as regards certain aspects only of Defence, be responsible to the Legislature.

" (2) The ' Minister ' though responsible to the Governor-General, should be an Indian; and he might be chosen from among the members of the Legislature.

" (3) The ' Minister,' of the character contemplated in (2), should be considered to be a member of the ' responsible ' Ministry, participating in all their discussions, enjoying joint responsibility with them, and, in the event of a defeat in Legislature over a question not relating to the Army, should resign with them, though, of course, remaining eligible for immediate re-appointment by the Governor-General."

The inconsistency and obvious disadvantages of the third suggestion were admitted by Sir Tej Bahadur Sapru, who put it forward, but he showed that the ultimate advantages which would accrue from adopting this suggestion would far outweigh the disadvantages. I may refer you to his remarks in the proceedings of the first Session of the Federal Structure Committee, at page 146.

That is the position which I find on going through the proceedings of the Federal Structure Committee.

Chairman: What do you mean by " the position " ? These were some of the suggestions put forward by some of the Delegates.

U Ba Pe: Quite so, I agree.

In applying these suggestions to the case of Burma, I think I can generally agree with the suggestion that the Minister shall be one from the non-official elected members of the Legislature, but whether

he should be responsible to the Legislature or to the Governor—whether defence should be a Crown subject pure and simple, or be subject to the control of the Legislature to some extent—can be only definitely stated if we go into the matter a little more in detail.

What do we mean by an army in Burma? Take the volunteer movement, the auxiliary and territorial forces, the supply and control of reserve, military education, the opening of a college for the training of officers, and so on. Are these the same thing as the use of the Army and other technical matters? Can we not divide these various departments of the Army under different categories, one category representing the subjects in respect of which the Legislature can take part and mould policy, and another, such as the use of forces in emergency, in respect of which the official decision can be left to the Governor for decision?

Now I shall be asked by other parties: “Have you a Burmese Army in Burma at present?” And I must, of course, answer in the negative; we have not got one. But it must be remembered that self-Government without the country’s ability to defend itself is of no value; and you cannot have self-defence placed on a proper footing unless you have the control over that subject. Further, you cannot defend your country for long with mercenary forces. At present we have in Burma, the British and the Indian units. I do not say we can do away with all those units at once; but I do say this; given the opportunity and a policy, we can replace a large section of those forces by Burmese forces, as far as the rank and file is concerned, in no long time. For instance, we have in Burma a Company of Sappers and Miners belonging to the Madras Presidency. About two years ago we had our own Burma Sappers and Miners, but they were disbanded on the ground of cost. They can be replaced immediately and can take the place of the Madras Sappers and Miners. Again, we had some four or five battalions of Burmese who were disbanded after the War. Most of the soldiers of those battalions now belong to the great army of unemployed in Burma. They are joining forces with the bad hats and local criminals, and dacoity of all kinds is widespread in Burma. If we can secure the services of these men, who are willing to come back, we can easily form a few Burman regiments straight away without much difficulty.

With regard to officers I see the difficulty. You cannot create an officer at once. But we can have British officers. I know that many British officers who were in command of the various companies in those disbanded battalions are willing to come back to Burma; they have the highest opinion of the Burmese soldiers under their charge, and they got on very well. There should not be any difficulty. In the meantime we can start the training of young Burmans; we can take men of the type suitable to our needs and train them as officers. No doubt it will take time, but it will not take decades. It is said you must give about 30 or 35 years to make a General. In normal times I suppose that is so; but during the War, England produced them within three or five years. Necessity, of course, gives them intensive training and that is responsible for bringing out the best of the available material. In the same way in Burma, given the opportunity and the will, I am sure we can produce officers of the

right type, not in three or four decades hence but within a reasonable time.

There is also this consideration, My Lord. The policy, if left to the Governor alone, will not be such as we want it to be. The raising of the Burmese Army, if the policy is entrusted to a Burman Minister, will be considerably expedited than if it is left to a non-Burman. That is what we feel. It may be as the result of treatment we have received so long from the Government of India that we have this feeling still running in our minds; but I am sure that, if the Minister in charge of the Army is a Burman, we can accelerate the pace of Burmanisation or setting up of the Burmese Army. I would have the Assembly or Council, or whatever you call it, have a voice in Army matters—over those matters where the decision does not affect the technical side of the question, as well as decisions that will not affect relations with other countries, which should be left to the Crown or to the Governor.

As regards the cost of the military expenditure I should agree on the basis of five years' expenditure so and so, allocated for Army expenditure, and that should not be subject to the vote of the Council.

I think I have covered the main points which I should like to place before the Conference at this stage, and I hope that the members of the British delegation will approach this subject, and I am sure they will do so, with one sole desire—that is, to help we Burmans to build up our Army on a footing that will give satisfaction to the British public as well as to our own people.

(The Committee adjourned at 1-30 p.m. and resumed at 2-45 p.m.)

Mr. Howison: My Lord, I wish to say shortly, on behalf of the European Delegates, that we have every sympathy with the desire expressed by the Burmese Delegates that they should eventually build up a Burmese Army. The difficulty, of course, is how, during the transitional period the Army in Burma, which would include British, Indian and Burmese troops, should be controlled. On this point U Ba Pe read certain extracts from the proceedings of the Federal Structure Committee of the Indian Round Table Conference. In this Report certain suggestions were put forward providing for some division of control of the Army and Defence problems generally. U Ba Pe seemed to be very much impressed by these proposals, but for my part I am much more strongly impressed by the succeeding paragraph, which U Ba Pe did not read. That is paragraph 8, which says:—

“ While some of these suggestions contain the germs of possible lines of development, it is impossible to escape from the conclusion (a) that so long as the Governor-General is responsible for Defence, the constitution must provide that the Defence “ Minister ” should be appointed at the unfettered discretion of the Governor-General and should be responsible to him alone and (b) that this “ Minister's ” relations with the rest of the Ministry and with the Legislature must be left to the evolution of political usage within the framework of the constitution.”

Now, I must say that I find it entirely impossible to escape from that conclusion, and any division of responsibility such as was suggested by U Ba Pe, whereby certain branches of the administration

of the Army would be under the control of the Legislature and other branches directly under the control of the Governor, fills me with horror, and I think it would equally fill with horror any individual asked to accept responsibility for the defence of the country on those conditions.

I quite realise that during the period of Burmanisation the people of the country and the Legislature must naturally take a keen interest in army affairs, and, presumably, opportunity in some form or other must be afforded for the discussion of army problems and army policy; but, however this may be provided, I should certainly strongly oppose any suggestion that the experience of the Burmese people in army matters should be acquired by dividing the control of the Army, and I am therefore entirely and absolutely in favour of complete control of the Army and of Defence resting with the Governor.

Major Graham Pole: May I ask Mr. Howison how he would propose that the evolution of political usage should come about?

Mr. Howison: Those were not my words.

Major Graham Pole: No, but they are words of which you entirely approved.

Chairman: That is rather a difficult question, is it not?

Major Graham Pole: It is a difficult question.

Chairman: I was going to refer you to the British Constitution itself.

U Ba Pe: May I ask a question?

Chairman: Yes.

U Ba Pe: Mr. Howison said opportunity will be given to the Legislature to have its say in respect of Army matters. I should like to ask how he would propose that the Legislature should have its say in regard to such matters.

Mr. Howison: It might be possible to provide that on certain occasions Army questions could, with the consent of the Governor, be discussed.

U Ba Pe: If the Governor refused to give his consent, the Legislature in that case will have no say?

Mr. Howison: I imagine that if the Governor would not give his consent there would be good reasons in that particular instance why the subject should not be discussed.

U Ba Pe: But in that event there will be no say in the matter by the Legislature?

Mr. Howison: In that particular event, no.

U Ba Pe: In that case I should like to ask a further question. The object of the Reforms is ultimately to devolve full responsibility on the people. By keeping Army matters entirely out of the purview of the Legislature, and by refusing them permission to discuss such matters unless the Governor gives his consent for their discussion, do you think you are giving the people training in the direction which is the objective of the Reforms?

Mr. Howison: I think so. I am assuming that the Governor would be a reasonable man, and would not unreasonably refuse permission to discuss Army questions.

U Ni: May I know what would be the period during which this state of things will continue?

Mr. Howison: I am afraid I cannot venture to prophesy that.

U Ni: At the end of that period, whatever it may be, the conditions will be the same if you adopt this method.

Major Graham Pole: My Lord, I think that this is generally agreed. The Federal Structure Committee of the Indian Round Table Conference dealt with the matter of Defence in its Fourth Report, in which it said:—

“ It is undeniable that there can be no diminution of such opportunities as the present Legislature possesses of discussing and through discussion of influencing Defence administration.” That is a reference of course to the Indian Assembly and it would apply equally to the new Burma Constitution. The Report says:—

“ . . . there can be no diminution of such opportunities as the present Legislature possesses of discussing and through discussion of influencing Defence administration. While the size, composition and cost of the Army are matters essentially for those on whom the responsibility rests, and their expert advisers, yet they are not questions on which there can be no voicing of public opinion through constitutional channels.”

The Assembly, of course, would be the constitutional channel.

U Ba Pe: Am I to understand that Mr. Howison would agree with that proposition? Is that so?

Mr. Howison: I find nothing to object to in that proposal.

Mr. Cowasjee: Suppose we had some provision that once in the year there should be a discussion on Army questions just like we have in the Legislative Assembly in India where the Army question is discussed and the Commander-in-Chief is given an opportunity of putting the Army case before the Assembly. If a provision of that kind is introduced in our Constitution that might have the desired effect and satisfy, for the time being, the aspirations of the people.

U Ba Pe: For how long?

Mr. Cowasjee: It is difficult to fix any time.

U Ba Pe: In the fulness of time.

Mr. Isaac Foot: Can *U Ba Pe* say for how long it should be in his opinion?

U Ba Pe: My suggestion is that it should start at once. In Army matters the Legislature should be allowed to have a say from the very beginning.

Mr. Isaac Foot: The question which *U Ba Pe* has put to one or two gentlemen on this side is, “ How long? ” Well, of course no one can answer that question, “ How long? ” without considering other factors. One of those factors is how long a time must elapse within which a Burman Army could be trained on which Burma would be prepared to rely? That is really a question for Burma. How soon

could that army be raised and how soon could you obtain the requisite number of officers? Those are questions which really U Ba Pe is in a better position to answer than those to whom he has put the question. Upon the general question I do not think there is any disagreement between us. I think it is generally agreed that so long as Burma must necessarily depend upon the British Army and to some extent upon Indian forces the responsibility must rest with the Governor. What I think he wants is that, during that period of responsibility of the Governor, there should be some machinery which would give to the Legislative Assembly an interest in the question and a possibility of discussing such parts of Army administration as the Burmanisation of the Army. It is really a question of machinery and it ought not to be beyond the wit of man to evolve some suitable machinery. As Mr. Howison has said, we must assume that the Governor will be a reasonable man who will know that the purpose is to give Burma within whatever period of time is possible, the management of her own affairs, and who will know that his policy must tend towards co-operating with the growing interest of the Legislative Assembly and the people of Burma in the building up of a Burman Army. It is a question of machinery, really.

U Ba Pe: I am afraid that Mr. Foot is talking from his experience in this country. For Burma to have a reasonable Governor is a good thing, and it is better if the Governor is a sympathetic man, but having some discussion in the Legislature does not mean execution. Execution is one thing and discussion is another. Presumably the Member in charge of the Army will be, according to Mr. Howison's idea, and I believe it is the same with Mr. Foot, an official.

U Ni: No, no; I do not think so.

U Ba Pe: You can interpret it as you like, but my impression is that there will be an official. Well, what is his position to be in the Legislature. It is not clear from what Mr. Howison has said whether he will be a Member of the Legislature or not; and whether he will be in the Cabinet or not is also not clear. I strongly oppose having an official in charge of Army matters. I may state a few of my reasons. I will tell you what I have in my notes.

We are out for conferring on Burma responsible self-government. In doing so, during the transition period of course, we shall have safeguards and reservations. In that case in some departments there will be a sort of dual control, if you are going to give training over all the field, as stated by the Chairman in his statement. But in working out such a scheme we must be very careful that we do not withdraw the responsibility over those particular subjects where you have safeguards and reservations completely from the Legislature. If we do that we shall never fit the Legislature to shoulder responsibility for these subjects. That is my firm conviction. In fact, it would be asking for trouble to place an official in charge of such departments. I am talking about the Army at present.

Of course we must have officials; but their business is to advise us. To place officials in charge of such Departments, or even to give them equal rights with the responsible Ministers to speak in the Legislature on behalf of those departments, in the first place, would create prejudice against those departments. It would also derogate

from the prestige the Minister in the Legislature, and would also frustrate the main object we should have in view. After all, the Legislature will be filled with men who know their country, their people and the needs of their country, and we cannot assume that the whole Legislature will be filled with men who have no responsibility, who have no regard for the people or country, and who will do all sorts of silly things that will go contrary to the interests of the country. We must assume that we are going to have—even if not in the first few years—responsible men in the position of statesmen and politicians whose sincerity of purpose and honesty we shall have to assume. Now can we not leave it to the better judgment of the representatives of the whole country over these matters. I am not asking for full control over the Army; I am just asking for a chance, an opportunity to begin at the beginning so that they can be trained up in responsibility in those particular Departments where, for the present, we need some reservations and safeguards.

Now for the building up of a Burmese Army I have already indicated that we have material there. It can be formed at once to a certain extent. But we need not talk this thing over again in the Council. Mere discussions in the Councils do not necessarily end in the execution of the wishes of the people. Our experience in Burma with the reserved subjects is that we talk and talk and talk, and Government simply ignores it. They are not responsible to us, and they say: "You can talk; we will carry out our ideas." That is the position we have. We want a position in which, while we will not interfere and we should not interfere in technical matters and higher policy, yet we must have a say, and our say should have the respect of the officials, so that they may carry out things in accordance with the wishes of the country. Unless we have that position I do not see the use of allowing us to discuss matters in the Assembly or Legislature and then finding ourselves helplessly let down. That is the position at present.

Mr. Harper: When you say "we must have a say," exactly to whom are you referring: to the Legislature or to the Ministers?

U Ba Pe: The Legislature. Then again, what is joint responsibility? If one Minister or Member of the Government can be irresponsible while the rest are responsible then you have a difficulty.

On the top of that, if you place an official in that position his irresponsibility will be increased. A popularly elected member must have regard to the wishes of his constituency whereas an official need not consider them. He is above popular feeling. So if you are going to have a Minister he must be chosen from the non-officials. You need not necessarily confine the choice to the elected members. I can see some force in that; but I would have the member elected from the members of the Legislature. Therefore, on the whole, I think you cannot give the people the necessary training in accordance with what you say—that they will have training over the whole field—unless you have in charge of that particular department, men who will be responsible to the country in some way or other.

Lord Lothian: U Ba Pe, may I ask you a question just to clear my mind, anyway. You say that the responsibility for what you call higher policy on the one hand and technical administration of the

Army on the other must be, during this period, in the hands of the Governor?

U Ba Pe: Yes.

Lord Lothian: I think all experience shows that when you have an Army, unity of command is absolutely essential, division of control in any Army organisation paralyses and breaks up the thing as a whole. Well, what functions do you see the Minister of a type which you have described actually discharging, assuming, as I think you must assume, that the control of the Army and the use of the Army and the higher policy of the Army are in the hands of the Governor and such Commander-in-Chief and other officials as he requires in order to carry out the administration of the department? What are the actual things which, let us say, the Minister of Defence, if you give him such a name, would discharge?

U Ba Pe: I would illustrate by an example. Supposing the Legislature decided on Burmese Units being fully filled up by a certain type, it would be for the Minister to work up to that programme. Technical matters in connection with the execution of the policy of the Assembly would rest with the experts. The Minister must act according to the advice of the experts. In those matters the Assembly or the Legislature will not interfere.

Lord Lothian: But how do you mean? Surely if the Governor is responsible for the efficiency of the Army, the discipline and so on, the actual process of absorbing the Burmese recruits, and so on, into the new units, must be in the hands of the Commander-in-Chief and in the hands of the Governor-General as long as that state of affairs lasts. What will your type of Minister actually do?

U Ba Pe: He will see to it that the policy or the wishes of the Legislature are given effect to under the advice of the military experts.

Chairman: Then he is not really responsible, is he?

U Ba Pe: He is responsible for giving effect to it, but he is not responsible for the technical side. That is not his business. That will be dealt with on the advice of the experts.

Chairman: Take any question you like. Supposing there is a resolution in the Burma Assembly that the standards for recruitment are to be so and so—I take that only as an instance—and that there are to be certain health tests, height tests, education tests, and so on.

If the military view differed from that, and they said that these tests were not sufficient or were too high or were too low—whatever the case might be—who is to prevail? Is the will of the Assembly to prevail, and do you wish the military authorities to be bound to carry that out, or may they say, “No, we do not agree, and we do not think that should be carried out?”

U Ba Pe: That is a simple matter. That is not what I am thinking of. The policy laid down by the Assembly will be “We must have an army of this type.” Within that army such questions as the height and chest measurement of the recruits will be decided according to the advice of the experts. The Assembly will not interfere with these things. They will simply lay down the policy of having certain units in the Army; they will say that there must be Karen units as well as Burmese units, and they may say that there must be Shan

units. They will lay down a policy to suit the requirements of the whole country, but within that policy the experts will decide that the height of the Burmese soldiers must be so much and the chest measurement so and so. In technical matters, the advice of the experts will be final and the Assembly will not interfere. The Assembly will merely lay down the policy, and the Minister will see that that policy is carried out, and he will give answers to the Assembly as to the extent to which the policy has been carried out. If it is not possible to carry it out he will get the advice of the experts and say, "For such and such reasons it is not possible to carry it out."

Chairman: The Minister, I understand from you, is responsible to the Assembly?

U Ba Pe: On that matter.

Chairman: Clearly, if that is so, the Governor is not responsible.

U Ba Pe: Not for the policy of building up a Burmese Army.

Chairman: If the Minister is responsible to the Assembly—

U Ba Pe: He will be responsible for the policy of building up a Burmese Army.

Chairman:—then you cannot hold the Governor fully responsible.

U Ba Pe: Not for policy.

Chairman: That is to say, according to you the Army is not really a reserved subject.

U Ba Pe: That is why I have a difficulty. You use the term "reserved subject."

Chairman: Call it a Crown subject if you like.

U Ba Pe: Whatever you call it, the use of the Army will be decided by the Governor. For instance, if there is a riot or some disturbance in the country, the question of whether the Army should be used or should not be used will be decided by the Governor and not by the Minister in charge.

Chairman: Let us suppose that the Governor says that at the suggestion of the Legislature—or at the order of the Legislature, if you like—the Army is divided into so much cavalry, so much artillery, so much infantry, so much air force, and so on.

U Ba Pe: No, that will be for the military experts to say.

Chairman: That will be for the military to say?

U Ba Pe: They will decide how much cavalry there must be and how many sappers and miners, and whatever it may be. They will decide the requirements of the country in that respect.

Chairman: For that the Governor is responsible?

U Ba Pe: Yes, and control over the use of the Army will be entirely in the hands of the Governor and not in the hands of the Assembly.

Lord Lothian: What you are really concerned with, U Ba Pe, is the broad question of Burmanisation; that is the matter about which you want the Legislature to come in. Your view is that the

whole question of how fast and under what conditions the national army of Burma can be created is a matter which concerns the Legislature?

U Ba Pe: Quite so.

Lord Lothian: You are not really concerned with the administration of the Army as an instrument in itself?

U Ba Pe: Not for the transitional period, no.

Lord Lothian: Do you not think there is a great deal of difference between the situation as it exists today and the situation in which you have a responsible Ministry? Will not that discussion inevitably take place between the responsible ministers and the Governor? The situation will be fundamentally different, and there will be these discussions; and, if the Indian precedent is followed, there will be discussions at certain stated intervals in the Legislature on this question of Burmanisation. But I think it is impossible to avoid the conclusion which is arrived at here, namely that you cannot blur the responsibility for the administration of defence; there has got to be one person who is responsible to the Legislature or to Parliament.

You cannot blur that discussion until you have built up and created a Burman Army. The question which interests you, as I understand it, as it interested the Indians, is the question of how soon, and under what conditions, you can begin to replace the Indian and British Armies by a Burman Army.

U Ba Pe: What we are afraid of is that, if the policy is not in the hands of the Assembly, the rate of Burmanisation would be so slow that it would only take place shall we say in the fulness of time, as some of my friends would say.

Major Graham Pole: I think that what concerns *U Ba Pe* is how far will the Burmans have any chance of controlling the creation of the Army.

U Ba Pe: Yes.

Major Graham Pole: If they can see methods by which they can create it more quickly, they want to be able to adopt these methods.

U Ba Pe: Quite so

Chairman: There is one other suggestion that has been made—I think it was made at the Indian Conference—and that was that there should be a committee of the Legislature with whom the man responsible for the Army—I will not prejudice the point by saying whether he should be an official or not but, anyhow, the man responsible for the Army under the Governor might confer at various times. The suggestion was that there should be a committee with whom he could confer and with whom he could discuss Army problems. There are some advantages I think in that. Very often these questions are difficult to discuss in an open Legislative Assembly, but in that way you could get a select number of people in the Assembly familiar with these Army problems. It would be open to them, of course, to make suggestions to this responsible person as to the development of the Burmanisation of the Army, and to make suggestions on other matters to which you have been alluding. That is one way in which it has been suggested it would be possible to

combine the definite and clear responsibility of the Governor for the Army, for the time being, with a method of keeping in touch with the Assembly or some members of the Assembly. It would provide some method of training members of the Assembly and enabling them to learn something of the intricacies of the problem and gaining some knowledge of army administration. If you are going to make the Minister concerned, a Minister who will be just one of the other Ministers, it is very difficult to see how you are going to fix any responsibility on the Governor. That is one difficulty I see in the suggestion, but in mentioning it I did so in order to try to see how you could reconcile these two things; how you could bring the experience and the knowledge of the Burman representatives to the notice of those who are responsible for the administration of the Army. You would have to do that, not only in questions which are entirely military, but also in the case of some questions which are really civil, because it is very difficult to separate the administration of one department from another. That is one suggestion which, as I say, has already been thrown out and which was brought before the Indian Conference.

U Ni: May I say a few words which I think I can say without fear of contradiction by my friends here? The suggestion has been thrown out that there should be some official in charge of this question. The result of that would be to shut it out of the purview of the Legislature. That suggestion, I am quite sure, will never be acceptable to us. I, personally, have never called upon you, My Lord, or the British Government to make any statement, but now we have reached a point on which I can say definitely that this would not be acceptable. We could never feel that we ought to be content if that position as regards the Army is to be introduced along with the new reforms in Burma.

Sir O. de Glanville: My Lord, I have already expressed my views as regards the Army when we were discussing previous topics. My view, very briefly, is that the question of defence must be a reserved subject. I recognise that there will be occasions, and that those occasions will grow more numerous, on which the Governor will think that he would like to have the views of the Assembly or the Council.

Now I am not in favour of the Minister having anything to do with it, either as recommended by the Defence sub-Committee of the Indian Round Table Conference or as suggested now. If the Army is reserved if Defence is reserved, it seems to me it would be out of the question that a responsible Minister should have anything to do with it. But I am very strongly in favour of the suggestion which fell from you, My Lord, as to the possibility of having an Advisory Committee which the Governor would from time to time consult on various questions that arose. That Committee need not necessarily be a Committee of the Legislative Council. I think it would be a great advantage to him and to the Army authorities to have a Committee of inhabitants of the country which he could consult from time to time; and as questions arose the Governor and the military authorities themselves might like to refer questions for discussion to the Council.

Take, for instance, the question of the training of Burmese officers. A question might arise as to whether we should open a Training College in Burma for them or send them to Sandhurst or wherever it

may be to get the necessary training and experience. That is a question which is not purely military, and it might very well be discussed in the Assembly. In the first place, the Governor would consult his Advisory Committee and get their views on it. If the subject is reserved, as I consider it must be, and if it is desired to carry out the avowed intention of making it more and more a matter for co-operation with the people of the country so that ultimately responsibility can be given to them, the suggested method I think would help us to attain that end.

I do not think it is necessary to put anything whatever about it in the Constitution, but I think it might be contained in Instructions to the Governor or by some other means that it was the desire of His Majesty's Government that steps should be taken as far as possible to associate the people with the Army policy. That I think would enable the Council to take an increasing share in Army questions. But I think it must be decided, and I think it ought to be definitely decided, that Defence must be a reserved subject, and that the time for transferring it to popular control must be decided by the British Parliament and by no one else.

U Ni: May I just put a question to Sir Oscar?

Chairman: Yes.

U Ni: Are you not going to make any provision to train up people who will be able to hold this portfolio in future?

Sir O. de Glanville: Yes, of course. The people of the country will have ample opportunity of expressing the opinion that they want Burmese just as they have now. But I do not contemplate the position arising, where the Council, if it had its own way, might make it very difficult for the Commander-in-Chief of the Army. The Burmese Council might say: "We want two battalions of Kachins, two battalions of Karens, and we want seven battalions of Burmans." The Commander-in-Chief might say and probably would say: "I have tried the Burmans up in the Frontier and they do not like service in the Frontier. You have too much for your internal security and not enough for the defence of the Frontier." Obviously he is the person to have the say in that matter.

On what has been suggested in the Advisory Committee the general view of the people might be communicated to him, but the responsibility must remain with the Commander-in-Chief or with the Governor, and when its control is transferred to popular control, responsibility will then, and then only, rest with the Legislature.

U Ni: You are not very clear to me, Sir Oscar, if I might ask a question?

Chairman: Certainly; put your question.

U Ni: I want to be quite clear. Will you not have a Minister responsible to the Governor? Will you not have somebody entirely in charge of this matter in the Council?

Sir O. de Glanville: No

U Ni: He may be responsible to the Governor; he may be the Governor's representative, as it were, if I may say so.

Sir O. de Glanville: No If a subject is reserved, and if responsibility is with the Governor, there must be nobody in the Legislature at all on that. The same argument will arise on Foreign Affairs, and we shall probably have to go over the whole ground again. On Foreign Affairs you may want a responsible Minister in charge of them, and I think that is equally impossible as in the Army.

U Ni: Then you are not training anybody We shall be left in the same position.

U Tharrawaddy Maung Maung: If we proceed along the lines of what Sir Oscar has just said I think we shall make very slow progress in Burmanising our Army. We would like to proceed with that at the greatest speed possible. We know that we have the material and we know that a great number of our people are fit for Army life. This morning a reference was made by Mr. Campagnac to dacoits, and how they might be used. That is a reference which might look rather funny if it were not explained. If you study these dacoits, I think anybody who has had experience in Burma would bear me out that they are really not criminally-minded. At a certain season of the year they are unemployed, and they have nothing to do, and some of their sporting events, like bullock-racing and so forth, have been stopped by the Government; they cannot spend their time either in sport or in any creative work, so they lead a kind of adventurous life which attracts them, and commit dacoities. It is something on the order of the University students doing here what they call ragging, I suppose; but if this exuberance could be directed towards some useful end, such as training for the Army, I think it could be very usefully employed; but in trying to proceed with the Burmanisation of the Army with all possible speed the best way is to have that department specially under popular control. If it is left to an official I think the progress will be rather slow. If you want any popular support you must have popular control. An official going out recruiting, I am sure, will not get as many recruits as a popular politician going out and trying to get these people in. Probably, you may not quite realise our mentality there, but it is true that if one of our people start a thing it is much more likely to get support than if an official goes out and starts it. So my submission is, in order to proceed with the Burmanisation should the Army with the greatest speed, this particular department should be under popular control.

Chairman: You mean that the Army should, in a sense, be divided into two—part the existing army, British and Indian mainly, and that then there should also be an office set up for the purpose of recruiting and controlling the Burmese Army proper?

U Tharrawaddy Maung Maung: I am just touching on one branch of what U Ba Pe has suggested—that if certain technical branches might be under the control of the Governor, the Burmanisation part of the suggestion might be under popular control.

Chairman: You are touching on it to this extent. Your suggestion is, if I may put it into my own words, that you want to set up another department, not the Army Department proper but, shall I call it, a Burma Army Department which shall be separate from the other

Army Department and which shall under the control of a Minister. Is that what you mean?

U Tharrawaddy Maung Maung: Yes.

Chairman: That sounds rather expensive to me.

U Tharrawaddy Maung Maung: That is the only way, I think, in which we can really go on successfully with the Burmanisation of the Army. We had some experience along those lines in the Great War, where, when the people of the country came out, they could recruit by the thousand. Might I add one thing as regards our fitness.

During this rebellion, Captain Rust, who was the first military officer to be wounded, said in one of his speeches to his volunteers, if given these rebels, that he would fight against any army of equal strength and equally armed, in spite of the fact that these men lacked training. I think that speaks highly of these people.

Chairman: He was speaking for his own leadership too, was he not! I am obliged for your suggestion; I agree that this is a difficult point, and I think all suggestions with regard to it are of value.

Mr. Loo-Nee: May I ask U Ba Pe what indigenous races of Burma will be in this army?

U Ba Pe: All the citizens of Burma.

Mr. Loo-Nee: If you say all the indigenous races of Burma that will mean one thing, but if you say all the citizens of Burma that is a different thing.

U Ba Pe: Well, I mean the citizens of Burma.

Mr. Loo-Nee: What is your definition of citizenship?

U Ba Pe: The Karens will be one of them. The citizens of Burma means not only the Burmese race; it comprises the Karens, the Chins, the Kachins, the Arakanese and all the rest, including the Anglo-Burmans and Indo-Burmans who are now inhabitants of the country.

Mr. Loo-Nee: What about the Indians?

U Ba Pe: The domiciled Indians I include with the Indo-Burmans.

Sir O. de Glanville: Would U Ba Pe object to an Indian army recruited in Burma?

U Ba Pe: No, they will come in and have their share.

Mr. Ohn Ghine: Mr. Isaac Foot said just now that the answer to the question of how long it will take Burma to establish a national army will depend on Burma. I should like to ask him what he means by "Burma," whether the Governor or the new Burmese Government?

Mr. Isaac Foot: I imagine the Governor would be in constant consultation with the Government and with the Assembly with a view to carrying out the undertaking given by this country. The Governor, when he goes out, must know the terms on which he has been appointed Governor. He will have his letter of instructions. He will know what the policy of Parliament is at that time, because it will have been fully declared, and I cannot imagine a Governor who would go there to set himself against the declared policy of the country which appoints him.

Chairman: It would be inconceivable.

Mr. Isaac Foot: It would be inconceivable, and he would go there not to frustrate that or to hinder it, but as the instrument through which it can best be effected. If it is declared publicly, and declared by Parliament, that the object is to give self-government to Burma, or rather to secure self-government for Burma, for it is not something to be given but something to be acquired, and if self-government implies the power of self-defence—and the two things in the end must be synonymous—it would be the duty of the Governor, of course, to facilitate those arrangements in every way possible. But he cannot go further than the material will allow, and, therefore, the question which U Ba Pe put is one which I cannot answer, and I do not suppose even Dr. Thein Maung can answer it.

U Ba Pe: Unfortunately the instructions given to the Governor are very good on paper only; the difficulty comes when they are interpreted and put into execution. Take the present instructions to the Government of Burma and see how those instructions are carried out! I can produce evidence to show that the instructions are one thing, but the execution is another.

Chairman: I do not think we can very well criticise the actions of the present Governor of Burma, but I would like to say generally that the position is that a Governor who does not carry out instructions can be recalled. Therefore the Government here can make him do what they want.

U Ba Si: In approaching this subject I am afraid one is inclined to be influenced by what has been said and done at the other Round Table Conference. Some of the Delegates here and, perhaps, the representatives of the British Government think that the reasons which make it desirable that Defence should be a Crown subject have the same cogency in the case of Burma as in the case of India, but conditions in Burma are different from those in India. As one of the speakers said, this morning there are in India, martial races and non-martial races. They were very much afraid that the martial races would become too powerful over the other races. The non-martial races were very much terrified. With us, however, the conditions are different. In Burma we are practically one people. There are races such as Karens, Kachins, Chins, Arakanese, Talaings and Shans. Every one of those races is a martial race.

What we are now discussing is the nature and extent of the reservation of this subject. We do not mean to say that this subject should be transferred at once and entirely to the Burman Legislature, but we are very strong in our view that we should have a share in the matter, especially in the Burmanisation of the Army, the speed of that Burmanisation, and so on. We understand our own people better, and we think that there is no reason why we should not divide this question into two compartments.

My Lord, we have your sympathy. That is all very well, but please try and think of ways and means to give us some substance and not only sympathy. The question is not our capacity; the question is your willingness and generosity. If you are willing, you can hand over this responsibility to us to-day.

Chairman: For the whole Army?

U Ba Si: As far as has been put forward by my friend *U Ba Pe*, only that. If there is a will there is a way. Please try and find out ways and means to give us something. Perhaps I may be allowed to tell you a little anecdote; I will not take more than half a minute.

Chairman: I would like to hear your story.

U Ba Si: One Mr. Jones owed some money to a lady. When he was asked for the return of the loan, he said: "Madam, please wait; I have been seriously thinking of the ways and means." The next time she went she received the same reply. After having that reply three or four times she said: "Look here, Mr. Jones, every time I come to you, you keep on saying: 'wait, Madam, I have been seriously thinking of the ways and means.' Now please tell me, Mr. Jones, what are the ways and means of which you have been seriously thinking." "Madam," he replied, "ways and means not to pay you."

Chairman: That was frank, at any rate, was it not?

U Ba Pe: We want the same frankness, Sir.

U Ba Si: But I hope our British Delegates will kindly think of some ways and means to give us something and not to keep us waiting.

Tharrawaddy U Pu: Your Lordship commended to us in your speech this morning the virtues of compromise; and you have asked fellow Delegates to meditate on the virtues of compromise and put those virtues into active execution during the course of the discussions. I am thankful to Your Lordship, as well as to Lord Lothian, for making the statements this morning. In my mind, my Lord, there seems to be a point or two which needs clarification. Reading through your speeches and that of Lord Lothian I take it that the principle underlying the Prime Minister's statement as to responsibility is this Responsible government will be conferred on India in the Centre. As for the Provinces, they will be given a kind of autonomous government. And it was stated by Lord Lothian here in reply to *U Ba Pe*; "I take it that the principle applying to India as a whole would apply to Burma." That is, that responsible government to a separated Burma with certain safeguards would be given. I take it like this, My Lord: I think this is the same meaning, although it is not quite clear.

Chairman: I do not want to stop you. I was only going to suggest, as we are discussing Defence, that you should perhaps deal with that.

Tharrawaddy U Pu: We have not taken part in the discussion up till now. If Your Lordship wishes me to take part here, I want, first of all, to ask you only this question, and then carry on with the discussion of the Army, because it is a very important subject. That is why I am putting this simple question.

Chairman: It is a little inconvenient, you will agree, breaking in upon a discussion, which is a very interesting one, on the Army, in order to put a question. If it will save time, put your question at once.

Tharrawaddy U Pu: Only one question now, and if you say "yes" I will confine myself to the subject under discussion if you want to hear me.

Chairman: Well you had better put it, and Lord Lothian no doubt will answer.

Tharrawaddy U Pu: U Ba Pe's question is not quite clear on this point. U Ba Pe's question this morning was this: "If it is clearly understood that the principle underlying the Declaration of the 19th January repeated on the 1st December this year applies to Burma, I am satisfied." Lord Lothian was pleased to say: "That is what I said." So that I want only this thing to be clarified in this sense; that the principle underlying there, that is, that responsible government would be given to India as a whole, would apply to separated Burma; that is, that responsible Government with certain safeguards is to be given to Burma.

Lord Lothian: That is right—responsible government subject to safeguards and reservations which are now being discussed.

Tharrawaddy U Pu: Yes. Thank you very much. My Lord, since we put in our statement which was read by Chit Hlaing on the 14th, we have not participated in the discussions of the Conference until this moment. Of course the proposed Constitution in the present statement is not one which we can accept. We came here out, and out for full Dominion Status without any reservations, but I think that, after hearing the statements which have just been made, I should be perfectly justified in taking part in the discussions of the Conference.

Now, returning to the subject of the discussion, My Lord, I have thought a lot about the reservation of the Army. I consider that we Burmans are fit to control the Army, but we are not ready to take it at the present moment. As regards our capacity to control the Army, I do not think any Burman would deny the capacity of we Burmans to control our own Army, but I do admit that we are not ready to take it just now, because we have not had a Burmese Army yet to defend ourselves. I do admit that; but how long would it take, My Lord, to build up a Burmese Army? By "Burmese" I mean all our indigenous races; I hope my friends will not misunderstand me. I mean all the citizens, more especially the Karens, who have shown great capacity in fighting. We Burmans, I submit, can build up an Army sufficient to defend ourselves in the course of five years. Generally speaking, I take it, five years would be quite enough provided you give us means to build up an Army as we like. We have the materials in Burma. You have heard a lot from my friends here about the ex-soldiers, sappers, miners and riflemen. We have a lot of material in our hands at present. The only thing that we want is money and other necessities to build up our own Army for our defence. I, for one, would like to have absolute control of the Army in the hands of the Burmese people, after, say, five years. At the present moment, I would agree to a Burmese Minister to be kept in charge of the Army who would make periodical statements in the Legislature, at least twice or thrice, not only once—

Chairman: Twice or thrice a year do you mean?

Tharrawaddy U Pu: Well, according to the present Constitution that you have proposed it may be necessary to call a Session of the Legislative Assembly, or whatever you may call it, at least two, three or four times a year. Now we hold our Sessions at least twice in a year, sometimes three times. In every Session we must be allowed to discuss all these matters. With regard to the building of the Army it must be left entirely in our hands. "In our hands" means in the hands of the Legislature, not in the hands of the

Governor or the Governor General, or whatever you may call him. We would like the business of building up the Army to be kept entirely in the hands of the Legislature, and we must have a Governor who will help us in the building up of an Army of that nature. No one can question the fitness of the Burmese to become soldiers.

I do not think I need waste your valuable time by repeating our history. We have had a General like Maha Bandoola, a name which will never be forgotten in Burma, and I hope there may be some in this country who will still recollect that name. We have many Maha Bandoolas among us now.

Chairman: Are there any at this table?

Tharrawaddy U Pu: There may be; for instance, there is U Maung Gye, who has a Volunteer Corps and who is training them, and there is U Su who has 20,000 volunteers. These volunteers are there. Our officials will support me in this statement. We have already got the volunteers; the only thing now necessary is to make the volunteers into proper soldiers. If you employ them as soldiers I am sure you will find that crime in Burma will decrease very much. So far as the rebellion is concerned, a lot of people joined the rebellion not for love of it but because they were so poor; they had no means of livelihood. If they were employed as soldiers with soldier's pay I am sure most of them would join the Regular Army rather than the rebellion. You can take it from me, My Lord, that the rebels joined, not because they wanted to fight against the Government but because they were poor.

Therefore, My Lord, I would suggest that the Army should not be a reserved subject for more than five years and should be under a Burmese Minister, who must comply with the request which we have made; that is to say, he must make a statement each Session on the matter which must be open to discussion by the Legislature. The Governor must also help us in building up the Army, and not be an obstacle standing in the way of it; and sufficient funds must be placed in our hands.

I would propose that the Military Department should not be a reserved subject for more than five years from the date of the introduction of the Constitution.

Mr. Loo-Nee: U Ba Pe has told us that all the indigenous races of Burma, in fact all the citizens of Burma, would compose this Burmese Army. You will remember that when I stated the Karen case during the Second Plenary Session of the Conference I asked for the creation of a Karen regiment, and gave a few reasons.

I wish to be clear therefore, My Lord, as to the attitude that will be taken towards the Karens who will be serving in the Burman Army. I wish to have something definite regarding the proportion of the Karen people to the Burman people in this Burman Army.

Chairman: I think it is rather difficult to get an answer now on that point.

Mr. Loo-Nee: A rough answer would serve my purpose.

U Ba Pe: Would it not be better if you suggested a proportion?

Mr. Loo-Nee: The point I want to make, My Lord, is that, if in the course of the formation of this Burman Army it is found that the Karens respond to the call of Burma in large numbers then it would

be only fair that their officers in this Burman Army should bear some proportion in numbers to the number of Karen recruits.

Chairman: Do you mean that they should be officers in the Karen regiments or officers in the rest of the Army?

Mr Loo-Nee: To begin with, we should like them to be officers in the Karen regiments, because as U Tharrawaddy Maung Maung has said, if the recruits know and have confidence in and respect for their recruiters their response will be better and quicker. My friend U Ba Pe gives me a nod of approval. There is another question which I wish to bring before this Committee. This is a question of fair treatment all round. It cannot be denied that those who join this army for the internal and external Defence of Burma lay themselves open to make the supreme sacrifice for their mother country. If that is admitted then I think it would be only fair for these races to be represented in the Assembly, especially as from time to time questions about the Army would arise in the Assembly. It would be better for their own representatives to be there to protect their interests and help them to the best of their ability.

Chairman: It is very ingenious of you to bring the minority question into this subject.

U Ni: Why does my friend Mr. Loo-Nee want others to discriminate?

Mr. Loo-Nee: I am not asking others to discriminate. I am asking this Conference a plain straightforward question. I do that in all fairness, and I expect a fair answer and nothings else—nothing more, nothing less.

Major Graham Pole: I rather think that these are details into which we as a Conference cannot very well go. Indeed, I think it would be rather a mistake if we did go on discussing the communal aspect of the army. It would be a very bad thing. Of course, we have in this country English and Scottish and various territorial regiments. I am not using the expression territorial in the technical army sense, but in the broad sense to indicate regiments belonging to different parts of the country. We know that Scottish regiments are—

Chairman: All Englishmen.

Major Graham Pole: English in part, at any rate. That is because they want to have the pride of belonging to Scotland, and one can quite understand that. You should introduce these things if possible into the Army, because I think it would be a tremendous advantage.

Mr. Loo-Nee: Our position is this, that we Karens are an integral part of Burma. We are in the larger sense as much as Burmans as these people are. As in the British Army you have the English, the Scotch, the Welsh, and so forth, so in this Burma Army. Remarks were made by other people to show our response so far as military service is concerned. Therefore, if we respond to the call of Burma for her defence, I submit that recognition should be given to our other claims quite freely and quite generously.

U Maung Gye: My Lord, the main reason why the Army is not transferred to popular control now, I believe, is that at present we have no Burmese Army, and Burma is now defended by British troops and Indian troops and, therefore, until we have a Burmese Army of our own, the Army should be placed under the control of the Governor.

I can quite understand that a British regiment stationed in Burma might possibly not like taking orders from a Burmese Minister, although I do not see why that should be so, but that is beside the point. I do not know that the Indian troops will not take orders from a Burmese Minister. I am open to correction on this point, but the impression I have is that the Indian troops will be ready to place themselves under the orders of a Burman Minister if they get proper treatment. However, I believe the policy of the British Parliament will be to replace the British and Indian troops with Burmese troops. I believe it is also the policy of the British Parliament to speed up such replacement. All that U Ba Pe has asked is that the Burmese people should be given some power to carry out what we believe to be the policy of the British Parliament; that is to say, that the Burmese Minister should have power to make arrangements to replace British and Indian troops with Burmese troops.

The question of raising Burmese troops should present no serious difficulty, because, as many of the speakers on this side of the table have repeatedly said, we are a martial race, and our ancestors left a military record of which we are proud. At present we have the nucleus for a future army. We have about four regiments of Kachins, Chins and Karens, and in the University Training Corps we have at present about five hundred officers and cadets. No doubt it is not an easy matter to devise machinery whereby the Burmese Minister responsible to the Legislature should be charged with the particular duty of raising a Burmese Army, but U Ba Si has asked the British Delegates to help the Burmese Delegates to devise such machinery, and I hope we shall receive a response from the British Delegates.

Mr. Hall: I have in mind My Lord, the point which you put this morning, and that was that you, with us, hoped that it would be possible to arrive at some conclusions with regard to the questions which are being discussed, and you asked for a spirit of compromise. I am rather surprised that the suggestion which you put regarding an Advisory Committee which might act as an intermediary between the Legislature and the Governor in dealing with this question of Defence has not been accepted. I thought in that case there might be a possibility of dealing with issues that were likely to arise because as a result of the discussion it has of course been agreed that at the present time there is no Burman Army. A Burman Army will have to be recruited and will have to be trained, and until such time as the Burman Army is recruited and trained, then it will be necessary to use the existing military machine, which is made up at present of some Indian battalions and also some British battalions. I thought Tharrawaddy U Pu himself was very fair with regard to this situation. He said that for some five years it would be necessary to depend upon this country for some assistance. I shall not deal with the period, but I thought if we could arrive at a conclusion that during this transition period an Advisory Committee on the lines suggested by Your Lordship, could be set up, then if there were any complaints from the Legislature that Burmanisation was not going on fast enough, very probably something could be done to expedite the recruiting of the Burman Army. I feel that if we proceeded on those lines it would be very useful, and some conclusion which could be agreed to by this Conference might be arrived at.

Tharrawaddy U Pu: I want to know from Mr. Hall, is there any difficulty in acceding to our request which was made by U Ba Pe and various other speakers, just to keep the Army under a Minister, a non-official permanent Minister, responsible to the Governor, but allowed to do certain things which we have mentioned in our statement. Is there any difficulty in acceding to our request, which I submit is very modest?

Then again I would ask him to be good enough to remember that the lack of a Burmese army is not due to the fault of the Burmans themselves, but to His Majesty's Government for not introducing it in Burma. We have the materials there.

Mr. Hall: The difficulty I see is as to separate powers. There is first of all the question of numbers. If I have understood U Ba Pe aright it is a question of deciding the policy; that is the matter which is to be left to the Legislature—numbers, cost, and things of that kind. Other matters are to be left in the hands of the Governor.

Tharrawaddy U Pu: Of course, we have to go into details with regard to these other matters.

Mr. Hall: That is the difficulty.

Tharrawaddy U Pu: That is the real difficulty, yes.

Mr. Hall: I thought that if an advisory committee was set up on the lines suggested, that in itself would act as an intermediary between the Legislature and the Governor, or whoever was responsible.

Tharrawaddy U Pu: I take it you are not against acceding to our request, but in addition to acceding to our request you want an advisory council on Army affairs?

Mr. Hall: I thought we would start first of all with an advisory council, or rather an advisory committee.

Tharrawaddy U Pu: But will you not agree to our suggestion that a Burmese Minister in charge of the Army must make statements for discussion in the Legislature twice or thrice a year, or as many times as the Council would be in session?

Mr. Hall: I certainly would be prepared to agree that some statement should be made periodically in the Legislature.

Tharrawaddy U Pu: By the Minister in charge?

Mr. Hall: By whoever represented the person responsible.

Tharrawaddy U Pu: Do I understand you to agree to our suggestion that we should have a Minister to deal with the Army Department, but to be responsible to the Governor? Do you agree to that suggestion?

Mr. Hall: I do not know that I could go quite so far as that.

Tharrawaddy U Pu: Thank you very much.

Chairman: I think we have had a very full and an extremely interesting discussion on this question. In my view it is the most interesting discussion we have yet had. I find, of course, some difficulty, as one always does, in putting together the points which have been discussed but I think it can be done quite simply in this way. We have been engaged on a rather difficult problem, because we want, on the one hand, to secure the responsibility of the Governor, bearing in mind that at present it is generally recognised that Burma has no Army of

its own, and on the other hand we want to secure that the Burmese—either their Legislature or their Ministry—should gradually acquire information, knowledge, and training in these difficult questions.

Again, there is the question of replacing the existing Army, either wholly, or to some extent, by a Burmese Army to be raised and trained from the Burmese people, and in that I include the other races in Burma. There is the question of that going on at the same time, and the problem was how that was to be effected. A number of very useful suggestions have been made which the Government will have to consider, but I think for the purposes of the present discussion we may say that we will take full note of the great importance that is attached by so many speakers to the necessity of bringing the Legislature in some way to touch with these problems, so that they may gain experience and in some way be able to control the shaping of the future Burmese Army.

Among the suggestions I made one myself, and I am glad to say that I got one supporter for that. All these things have to be weighed very carefully, and I think that for the moment I can only say that these are the salient points which have come out very forcibly in the course of our debates.

Mr. Haji: You mentioned My Lord, many suggestions that have been made, but there is one other suggestion which I should like you to permit me to make. In the Indian Legislative Assembly the Secretary for the Army sits in the Legislature from day to day and answers questions with regard to the Army Department. Whenever there is a resolution with regard to the Army he answers for the Government, and on occasions when the question is taken up very seriously by the leaders of the parties the Commander-in-Chief comes to address the House. That is a method which perhaps would meet the demand on this side of the Conference, that there should be day-to-day contact between the Legislature and the Army Department. That is the procedure in the Indian Legislature, and it suggests to my mind a method which might be considered with the others.

Chairman: The Under Secretary of State tells me that that is one of the points which he will consider.

(The Committee adjourned at 4-23 p.m.)

Proceedings of the Ninth Meeting of the Committee of the Whole Conference, held on Thursday, the 17th December, 1931, at 11-15 a.m.

HEAD 9.

THE HIGH COURT.

The following points for discussion in connection with this Head were drafted by the Chairman:—

- (i) *Constitution of the Court.*
- (ii) *Qualifications of Judges.*
- (iii) *Method of appointing Judges and filling temporary vacancies.*
- (iv) *Appointment of temporary additional Judges.*
- (v) *Tenure and age of retirement.*

U Maung Gye : My Lord, we have a High Court in Burma at present, and, doubtless, we shall need a High Court on similar lines in the future. On the establishment of the new High Court, the judges of the present High Court will continue in office on the same terms and by the same tenure as previously, but new appointments must necessarily be made by the Governor on the advice of his Cabinet in accordance with constitutional usage.

Barristers and advocates of not less than ten years' standing should be eligible for such appointments, but, as we want the best men available, the selection need not be restricted to that class only but may be extended to senior members of the Judicial Service.

Major Graham Pole : May I ask what is the other grade besides that of barrister in Burma, corresponding to the vakil in India?

U Maung Gye : We have advocates.

Major Graham Pole : Is the advocate a solicitor and barrister combined?

U Maung Gye : No, but a man must have his name on the rolls of the High Court before he can practise there.

Sir O. de Glanville : I think what Major Graham Pole wants to know is what we have corresponding to the vakil in India.

Major Graham Pole : Or to the solicitor here.

Sir O. de Glanville : We have men who have passed the local examinations, which admit them to exactly the same privileges as a barrister. They are generally Bachelors of Arts and Bachelors of Law of the University, and they have to undergo a local examination and are on practically the same footing as the barristers.

Major Graham Pole : They practise?

Sir O. de Glanville : They practise. We have no solicitor or barrister distinction.

Major Graham Pole : Do you want to exclude them?

U Maung Gye : They can apply to be enrolled as advocates of the High Court.

Mr. Cowasjee : What about solicitors?

U Maung Gye : If they can enrol as advocates of the High Court they will also be eligible for High Court appointments.

We all desire that our judges shall be independent in the discharge of their functions, and we may require them not to hold any other office of emolument during their term of office. They should have the same security of tenure as the judges have here; that is to say, once they are appointed they will hold office during good behaviour.

Major Graham Pole : For life?

U Maung Gye : No, I am coming to that. They will hold office during good behaviour until they reach the age limit. They must not be removed except for misbehaviour or incompetence, and then only on an address from both Houses of the Legislature.

Their remuneration should not be diminished during their term of office. The Constitution Act, I think, need embody only these broad principles. Details, such as the number of judges, the distribution of business and of jurisdiction among them, their emoluments, and age limit; these had better be left to the new Legislature.

Tharrawaddy U Pu: Does U Maung Gye mean to say that the tenure of office must be subject to removal by both Houses in the same session on the ground of proved misbehaviour or incapacity?

U Maung Gye: It does not matter whether the resolution is taken in the same session in both Houses or in different sessions.

Tharrawaddy U Pu: The ground of removal is to be proved misbehaviour or incapacity?

U Maung Gye: Yes.

Chairman: There is one point about the salaries of the judges. I suppose you would place them on what we call here the Consolidated Fund—that they should not be subject to votes in the Assembly?

U Maung Gye: Yes, I have said that their remuneration should not be diminished during their tenure of office.

Chairman: But you would not make them votable each year like the votes for other things?

U Maung Gye: No.

Chairman: You would remove them, therefore, from the vote of the Assembly?

U Maung Gye: Yes.

Mr. Wardlaw-Milne: There seem to be a certain number of points which the Committee might advisedly discuss shortly. I do not think there will be a great deal of difference of opinion about some of them.

The first point that occurs to me is raised on reading the documents relating to what exists at the present moment. Is the High Court to be constituted by an Act or by Letters Patent? I think the latter is the better method, and I gather that will be more or less generally agreed.

The next question relates to the qualification of the Chief Justice in Burma. I see the position at present is that certain definite rules exist regarding the number of judges who should be chosen from the ranks of barristers, the number who should be Scottish advocates, and, a third class, the number who should be members of the Indian Civil Service. I think that, so far as your Chief Justice is concerned, any qualified person should be the Chief Justice, but I suggest for the consideration of the Committee that it is very desirable that your judges should be appointed by the Crown. I think it is much better that we should face this position at once. Burma is getting a new constitution, and there is bound to be—it is human nature—a certain amount of political influence, at least until things settle down. It is most desirable in the interests of every inhabitant of Burma that your judges should be above every possible suspicion of political influence of any kind whatsoever, and I suggest that, having laid it down that any qualified person should be appointed your Chief Justice, possibly you might do away with these requirements for definite numbers from the three branches I have just named. I think you might appoint suitable persons from among barristers, the Civil Service, etc., but the appointment should be made by the Crown, so that there shall be no question in Burma of any political influence of any kind whatsoever. I am suggesting, therefore, for the Committee.

to consider that the existing fixed quota should be done away with, but that the appointment should be by the Crown.

Then there is another point, with regard to temporary appointments. That, at any rate, I suggest might be done by the Governor. I do not quite know what the existing system is, but I think that temporary appointments might be made by the Governor, who, presumably, has not any political interests in the matter.

Then there is another point. That is regarding the question of an age limit. I see there has been difficulty apparently over the fact that there is no age limit. Now I am going to suggest to the Committee that you should not put that age limit too low. I think a Judge is different from almost anybody in the world. I am rather in favour of early retirement from very active service of any kind, but in the case of a Judge you do not want him to take a great deal of physical exercise or to wander about the country a great deal. You do want the very ripe experience that you get from men who have either been in the country a good long time or have been in the Service or in the Law, or whatever it might be. I suggest you might make the age limit as high as 65 in the case of Judges. I do not know what the Committee think about this point; but it occurs to me that these are the practical points that they would have to deal with.

My Lord, I do not know that there is a great deal of difference between any of us on these points. If there is not much difference, perhaps we could agree on the main principles as to how the High Court should be constituted, how the Chief Justice should be chosen, and how the Judges should be appointed; whether there should be an age limit; and whether or not we should do away with the present fixed quota as to the different appointments. I put it very shortly. I suggest the Court should be constituted by Letters Patent; that the Chief Justice should be any person who is qualified to be a Judge; and that he and the other Judges should be appointed by the Crown; that the fixed quota should be done away with; but that the Service should be open; that the Judges should be appointed either from the Civil Service or from barristers who may be qualified; and that an age limit should be fixed at 65.

Major Graham Pole: And the salaries should be non-votable.

Mr. Wardlaw-Milne: The salaries, of course, should be non-votable. These are the main points as they occur to me; and, subject to any arguments I may hear against these views, those are the views that I take at the present moment.

Mr. Cowasjee: My Lord, on the general question of the appointment of High Court Judges, I am partly in agreement with my friend, U Maung Gyee, that the Governor should be the person to recommend Judges of the High Court to the Crown and that the Judges should be appointed by the Crown. We do not know what Secretary of State we are going to have under this new constitution, but whoever that person is, the nomination should be made by the Governor and not by the Governor and his Cabinet. I am not in favour of the Cabinet having any voice in the appointment of His Majesty's Judges of the High Court, because I am desirous, as I have no doubt U Maung Gyee and others are, that the appointment of the judges of the High Court should be outside the scope of political

influence and always above suspicion. There should be no suggestion made that political influences or supposed political influences have been exercised in the appointment of any particular person as a High Court Judge; and whoever is going to be the High Court Judge of the future High Court of Burma under the new constitution, he should be a person appointed on the unfettered recommendation of the Governor. I have no doubt the Governor, before making his nomination, will consult the Chief Justice of the High Court, as is the present practice. At present, I understand nominations are made by the Governor in consultation with the judges of the High Court, and not by the Governor on the recommendation of his Ministers. As we shall do away with the Executive Members of the Governor's Council, and as we are going to have the Governor only and Ministers of the Legislative Councils, I think our proper advice is to recommend that the nomination of a High Court Judge should be made by the Governor alone. I consider he should exercise his unfettered discretion in the nomination of the person as a High Court Judge, and what appears to me to be most important is that there should be no distinction of race, class or creed in the selection of a judge of the High Court. We ought to have the very best man we can get. I do not care whether he is a European, a Burman, and Chinaman, or anybody else.

So much on the general question, and connected with this is the question of the possible removal of a High Court Judge. The High Court of each Province should be entirely outside the control of the Legislature—that is my considered view—and I think it would be an unfortunate day for Burma or for any other country if the judge's salary should be votable, or that the question of the removal of the judge should be a subject-matter of discussion in the Provincial Legislature. If this principle is not admitted you will take away the complete independence of the High Court. I say that the right of removal of the High Court Judge should be exercised solely by the Crown. As to how the ultimate authority is going to exercise that power, and what tribunal should be constituted for that purpose, are matters with which we are not concerned at this stage. Once we admit that the appointment of a High Court Judge should be by the Crown, and that his removal should likewise be by the Crown, questions of procedure and all subsidiary matters do not come, in my opinion, strictly within the purview of our discussion to-day.

I come now to the detailed points for consideration. The first item is the qualification of the Chief Justice. At present in Burma, barristers, pleaders of the High Court and solicitors, all go under one common designation as advocates of the High Court, so that for practical purposes there is no distinction to-day in Burma between a barrister, a pleader or a solicitor; enrolled as advocates of the High Court, they are all entitled to practise in the High Court as advocates, and I would therefore agree that all advocates of the High Court should be eligible for appointment as Chief Justice. The wording of item No. 1 is:—

“ . . . any person qualified to be a Judge and not to barristers only, as at present. ”

It is quite obvious that under this qualification a civilian could become a Chief Justice. I am not in favour of the appointment of

a civilian judge, or any other member of the Indian Civil Service, to be a Chief Justice of the High Court of Burma. We would rather have a practising advocate, a man who has had practical experience of the Bar—

Mr. Wardlaw-Milne: Before Mr. Cowasjee passes on, might I ask him one question there? When you say you prefer that, do you mean that it is desirable to lay it down definitely that in no circumstances should a Civil Servant become Chief Justice?

Mr. Cowasjee: Yes.

Major Graham Pole: That is laid down at present, is it not?

Mr. Cowasjee: I am not quite sure, but that is the practice undoubtedly.

Mr. Wardlaw-Milne: It is not the rule, I think; it is the practice.

Major Graham Pole: It is laid down that no member of the Indian Civil Service can be a Chief Justice of the High Court.

Mr. Cowasjee: That is laid down somewhere, I do not know where, but I think a Bill is about to be introduced in Parliament which will have the effect of enabling a civilian to be a judge of the High Court.

Major Graham Pole: That Bill died two years ago.

Chairman: I should like to ask you a question on that, Mr. Cowasjee. You agreed, I understand, that someone from the Civil Service might be appointed a judge, did you not?

Mr. Cowasjee: I shall deal with your point when I come to item 2. Your point arises on the next question of the qualification of judges, which is item No. 2.

Chairman: I am on the same point that you are on now, because you said you did not want anybody but a barrister or an advocate to be qualified to be Chief Justice.

Mr. Cowasjee: Yes.

Chairman: You implied, therefore, that you did not object to their being judges?

Mr. Cowasjee: I would rather deal with your question, My Lord, when I discuss item 2, Qualification of Judges.

Chairman: I will put my question a little later, if you like.

Mr. Cowasjee: I am obliged to you, My Lord. I had your question in mind and had intended to deal with it when I came to item 2, which says:—

“ It is believed that there is a strong body of opinion in favour of the retention on the Bench of Judges of members of the Indian Civil Service or promoted from the Provincial Judicial Service. ”

That specific point is therefore dealt with in item 2.

Chairman: If you like, I will ask my question when we come to that, but my question refers to the Chief Justice.

Mr. Cowasjee: As Your Lordship has pressed that question on me, I shall deal with it at once. So far as the qualification of judges is concerned, we have on the High Court Bench to-day, a certain number of civilian judges. I am not in favour of the total exclusion of civilian judges from the High Court. I am merely expressing my personal opinion based on my own personal experience—take that

opinion for what it is worth—I find that our civilian judges are just as competent and capable to deal with litigation, and particularly the class of litigation from the districts which comes before the High Court, as any barrister judge. We have to-day and have had in the past some very capable and industrious men on the High Court Bench recruited from the Indian Civil Service, and I venture to think that if proper care is taken in the selection of civilian judges for the High Court Bench, we ought to continue to have equally competent men from the Judicial Department of the Indian Civil Service, provided the selection is made on individual merits and not made solely on the score of seniority. That being so, I would not exclude civilians from being qualified to become judges of the High Court, provided the number of civilian judges is not beyond a certain figure.

Major Graham Pole: At present it must be a certain figure, must it not?

Mr. Cowasjee: It is limited, I think to one-third.

Major Graham Pole: At present I think it must be one-third.

Mr. Cowasjee: I cannot recall to my mind the existing rule and I am not quite sure as to the present proportion, but I think it is laid down somewhere that the civilian judges should be one-third. My view is that we need not provide that one-third of the judges of the High Court must necessarily be civilians, but we may have a provision that the number of civilians shall not exceed a certain figure. It is difficult to say whether this should be one-third or one-fourth; indeed, I am not in a position to say anything definite as to what the proportion should be, but it ought to be a maximum figure under any circumstances.

Chairman: Do you want a figure at all?

Mr. Cowasjee: If we have no figure at all, there is a danger of the High Court being crowded with civilians which is not desirable. I think they should not exceed a civilian proportion of judges. The existing rule of a minimum should be altered to a maximum.

Mr. Isaac Foot: Mr. Cowasjee will be aware that the proposal was to do away with the quota in the Federal Structure Committee, but still to leave it open for a civilian judge to be appointed, and even to become Chief Justice.

Mr. Cowasjee: Not Chief Justice, I think, but a judge of the High Court.

Mr. Isaac Foot: I am referring to what was decided by the Federal Structure Committee.

Chairman: Mr. Cowasjee, I think, is giving his own view. Is that not so?

Mr. Isaac Foot: I was referring to what the Federal Structure Committee had proposed:

“The Committee is of opinion that High Court Judges should continue to be appointed by the Crown, and that the existing law which requires certain proportions to be barristers or members of the Indian Civil Service should cease to have effect, though they would maintain the existing qualifications for appointment in certain respects, but the highest post should be open to any judge.”

Mr. Cowasjee: In Burma the considerations perhaps are different. In India racial considerations come in as there is a keen competition between barristers and pleaders as a class.

Chairman: I want to know your view, Mr. Cowasjee, on the point made by Mr. Foot. You agree that civilians should be qualified for appointment as ordinary judges?

Mr. Cowasjee: Yes.

Chairman: Well, if you have a civilian appointed an ordinary judge why are you going to debar him from being a Chief Justice? Assume that such a man is obviously the best man on the Bench for the highest office, are you to say, merely because he had a training as a civil servant, that he should be disqualified from being Chief Justice?

Mr. Cowasjee: The training of a practising advocate is very different from the training of a civilian. For a Chief Justice you want a person who has not only a judicial training and judicial mind, but something different and something much more, which can only be acquired in actual practice and can be appreciated only by the man who has undergone that training.

Chairman: That may be so, but, after all, people have all kinds of geniuses, and a man may have a genius for law even though his previous training has been in the Civil Service. Why, therefore, should you put down a hard and fast rule that such a man, despite his genius for law, shall be prevented from taking the highest post merely because he is a civilian?

Mr. Cowasjee: No member of the legal profession has yet seen a genius for law in the Civil Service.

Chairman: That may be your view.

Mr. Cowasjee: Had there been a genius for law in the Indian Civil Service he would surely have thrown up his service and joined the bar, the more lucrative profession.

Chairman: But he might be appointed because he had displayed these qualifications, might he not? I know a good many eminent Judges who started life as business men. I consider, from the point of view of the litigant, that I would much prefer to have a Judge who had had experience as an administrator or as a business man to a man who had been solely brought up as an advocate. That is my feeling.

Mr. Cowasjee: Well there is always a certain amount of suspicion against a Civilian Judge that he is more prone to side with the Executive and so on. It is, after all, public feeling and opinion which must be respected; perhaps very often it is baseless suspicion; but still on a question of general principle I think the appointment of the Chief Justice should be limited to a practising advocate. I think that is undoubtedly the view of the legal profession in Burma.

Chairman: I am sure it is the view of the legal profession; I do not doubt that.

Mr. Cowasjee: And I feel confident that the general public also will view with favour the exclusion of civilians from the post of Chief Justice. I may tell the Conference that on the question of the appointment of a civilian as a Judge of the High Court there is a

difference of opinion in the profession. A powerful section of the profession I believe is strongly of opinion that a civilian should be excluded from the appointment of a Judge of the High Court. On this point I have expressed my personal opinion; it must not be taken as the opinion of the profession in Burma.

Then there is the question of the appointment of judges and additional judges. That I have already dealt with; I say it must be left entirely to the discretion and judgment of the Governor alone guided by the Chief Justice.

Major Graham Pole : Acting on advice?

Mr. Cowasjee : Acting on the advice of the Chief Justice of the High Court, because after all in practice you should not force a person as a Judge of the High Court on the Chief Justice in opposition to his views.

U Ni : That is your view.

Mr. Cowasjee : That is my view. And I have urged the obvious reasons why the Burmese Cabinet must be excluded. The Cabinet should have no influence on the Governor in the selection of judges.

Major Graham Pole : Even if he was a political man, does it not remove him altogether from politics once you put him on the Bench?

Mr. Cowasjee : It ought to; once a person is appointed a judge of the High Court he should have nothing to do with politics; but if an appointment is made by the Cabinet there is always a danger of the appointment being made for political reasons and the danger of strong pressure being brought on Ministers.

U Ni : Where? in England?

Mr. Cowasjee : And the action of that judge on the Bench, would always be misunderstood and always a certain amount of suspicion imputed to him that he was actuated by political considerations for the Party whose representatives had put him on the Bench.

I come to the question of the method of filling short term vacancies. That, again I submit, should be left entirely to the Governor and not to the Governor and his Cabinet.

Tenure and age limit. My view is that a judge should remain as a Judge of the High Court until he attains the age of 60. I am not in favour of the extension of the age from 60 to 65. Without entering into a discussion as to what my reasons are, I say that 60 years is just the age when the man should retire from the Bench in a Province like Burma owing to its trying climate.

Major Graham Pole : Do you think that at sixty you will be too old to be a judge?

Mr. Cowasjee : At the age of sixty I do not think you will usually get the right sort of men, as a rule, to take up a judicial appointment. I am over sixty and I am in active practice.

Major Graham Pole : To take it up; but to continue?

Mr. Isaac Foot : To give it up.

Mr. Cowasjee : Well, it is very difficult to lay down any hard and fast rule, because sometimes a man is just as good at the age of seventy as at the age of fifty for the purpose of his work on the Bench or elsewhere.

Chairman : Do you propose that these men should be pensioned?

Mr. Cowasjee : Yes.

Chairman : If they are long-lived gentlemen—and they generally are at the Bar—that would make a rather heavy pension list, would it not, if they retired early?

Mr. Cowasjee : I cannot say exactly since when, but I take it from the time of the foundation of the High Courts, we have had the sixty years limit. In any event, I think the sixty year rule is a good rule to give the younger men a chance to go on the Bench.

Chairman : We want good justice, do we not, rather than the younger men?

Major Graham Pole : If you have a very able man on the Bench at sixty and he is doing very well and is not enfeebled in any way, would you want to pension him off and not have the benefit of his services?

Mr. Cowasjee : But how are you going to decide that? Are you going to have a committee of medical men to subject a judge to periodical examination when after sixty and draw invidious distinction between one judge and another on the High Court Bench? If you have a hard and fast rule of retirement at sixty that may on occasions cause individual hardship, but in the long run it will be found satisfactory.

Chairman : Have you any other point that you wish to bring out, *Mr. Cowasjee*?

Mr. Cowasjee : My Lord, there is the question of salary. As I have said, that should be fixed in a form so as to make it remain a permanent salary, a fixed figure, not votable, alterable or reducible by the Burma Legislature.

Mr. Isaac Foot : There is no dispute on that, I think, my Lord.

Chairman : I do not think there is any dispute in any quarter on that point about the judge being completely free of political influence. I do not think anyone would advocate that the judges should be subject to political influence.

Mr. Wardlaw-Milne : May I just clear the question of the age. I suggested sixty-five; *Mr. Cowasjee* suggests sixty. I do not think there is much in it. There is a good deal to be said for the fact that sixty in Burma may be older than sixty in other places, owing to the trying climate and all that. At the same time, I think, there is the difficulty to which *Major Graham Pole* referred, the undesirability of getting rid of a very good man at the age of sixty. I have made those points, and I do not want to press them.

U Ni : I do not want in any way to be hostile to *Mr. Cowasjee*; I want to be very friendly; but I think he has just said some things which are quite in open conflict with the views of the Bar in Burma and of the people there.

Mr. Isaac Foot : He said so.

U Ni : He does not want to keep the power of appointing judges of the High Court as well as the power of removing them in the

ordinary way in which other countries keep them. He wants to depart from the usual rule. The practice here in England is very well known, in Ireland also, in South Africa—

Major Graham Pole : Yes; in all the self-governing Dominions they are appointed by the Governor or the Governor-General acting on the advice of his Ministers.

U Ni : Yes, always, and if you are not going to trust the Cabinet, the country's representatives—well, I think there is no other way out. Simply because a judge is appointed by the Cabinet, it does not follow that any evil political influence will be introduced. This is not the practice in England.

Chairman : What is not the practice?

U Ni : Simply because a judge is appointed on the advice of the Cabinet—

Chairman : No judge is appointed on the advice of the Cabinet here. I ought to know; I have been a great many years in the Cabinet, and I say that on no single occasion has the question of the appointment of a judge ever come before the Cabinet.

U Ni : I do not know whether I am expressing my views correctly, but what I mean is this. Take section 72 (1) of the Australian Constitution; it provides that justices of the High Court and of other courts created by Parliament shall be appointed by the Governor-General in Council. That means on the advice of the Executive.

Mr. Wardlaw-Milne : Are you aware of the difficulty that has recently arisen in Australia? Is that not just what we want to avoid? I do not want to go into details.

U Ni : Section 68 of the Irish Constitution provides that judges of the Supreme Court and of other Courts shall be appointed "by the representative of the Crown on the advice of the Executive Council"—which is the Cabinet, of course. The position is quite clear, and I could cite other instances, but I do not think it is necessary.

Mr. Isaac Foot : *U Ni* is acquainted, of course, with the proposal of the Federal Structure Committee of the Indian Round Table Conference that the appointment should be with the Crown in India.

U Ni : There may be special reasons for that in India, of course.

Major Graham Pole : That is in the Third Report of the Federal Structure Committee.

U Ni : Another point is the question of removal on an address by both Houses. That is a view held in Burma by the members of the Bar as well as by the public; that is quite definite.

Mr. Cowasjee : Where do you get the authority for saying that it is supported by members of the Bar?

U Ni : I have been practising there, and I know their views. I would ask the Conference to be pleased to verify my statement by sending a telegram, if possible.

Chairman : We are quite ready to accept your statement.

U Ni : If there is a doubt as to the truth of my statement, I would rather have it verified. In the draft constitution prepared by the Hundred Committee, which I have here, this is provided, after

proper discussion among the members. Here, also, the appointment is to be made by the representative of the Crown on the advice of the Executive Council.

Chairman : From what are you quoting?

U Ni : I am quoting from a constitution drafted at the instance of the Hundred Committee—a Committee on which all the members of the various parties served; the High Priests were also there. My friend U Ba Pe was a member, and the representatives of other parties present at this table will bear me out. According to that draft constitution, the power of appointment and removal is kept in the usual hands. This, again, appears in a scheme prepared by the Separation League.

Mr. Isaac Foot : When U Ni refers to Canada, he will be aware that when the Constitution of Canada was framed, the appointment of the judges rested with the Crown. I mention that, if he is quoting Canada as the precedent.

U Ni : The British North American Act is an exception. Since then we have had the Irish Free State Constitution.

Mr. Isaac Foot : That was Canada in 1867. U Ni was taking an illustration. Canada has begun, and Burma has to begin.

U Ni : The latest precedent is the Irish Free State, and, as you know, the ruling ought to be according to the latest precedent.

Sir O. de Glanville : We must all agree that one essential that Burma will require is an impartial and independent High Court, and I believe the best way of securing that is by the appointment of judges entirely by the Crown. If judges are appointed on the advice of the political party in power for the time being there is a danger that they will be appointed, not for their ability as lawyers or for their fitness for judgeship, but as a reward for political services, and that, I think, would be fatal to the interests of the country. The people at present have implicit faith in the High Court, and I hope that that faith may continue. They may not have implicit faith in the Ministry of the day, but they can get rid of that Ministry. Once their faith in the High Court is destroyed it would never be restored. Therefore, I am strongly in favour of the appointment of judges being in the hands of the Governor.

Mr. Isaac Foot : The Governor or the Crown?

Sir O. de Glanville : The Governor would recommend. Obviously the Crown has to get its information from some source.

Major Graham Pole : You mean the Crown on the advice of the Governor.

Sir O. de Glanville : Yes, that is what would happen in practice. The Secretary of State here has no first hand knowledge, and he, I take it, would refer to the Governor asking whom he suggested, and I believe that every Governor would, as is done at present, consult the Chief Justice and the judges of the High Court.

Mr. Harper : What about the appointment of judges from England?

Sir O. de Glanville : I do not know what the practice is in that respect, but I imagine that the appointment of a judge from England is not made without some communication with the Viceroy or the Governors of the Provinces. That, of course, I know nothing about. I am dealing with the general principle that if Burma separates, appointments should and must remain with the Crown, and I do not like the idea of any politicians interfering in the matter or even being consulted. As far as I know the practice hitherto is that no politician has ever been consulted.

Now I come to the next point, My Lord. That is the question of the qualification of a judge. I agree with what has been said that the qualification should be a certain number of years—it is 10 years now—as a practising advocate, and also the qualification for members of the Judicial Service, which is, I think, 10 years as a District Judge. Those are matters of detail, but members of the Civil Service, or of the Judicial Service rather, should be eligible for Judgeships. The question of the proportion is, I admit, a somewhat debatable matter. At one time the High Courts—certainly the High Court at Rangoon—was the monopoly of the Civil Service, or rather the Chief Court as it was then; and barrister judges were unusual. Then a rule was introduced limiting the number of the civilian judges. That was done under very strong pressure I believe from the Bar, with the Public, possibly under the influence of the Bar, supporting it. I believe the view of the profession generally in Burma now is that the majority should be barrister judges or advocate judges. Whether that should be continued or not is, I admit, a debatable point, but I certainly strongly favour the inclusion in the High Court of officers taken from the Judicial Service who are not Advocates. They have been a source of strength to the Chief Court and High Courts of the past, and some of our ablest Judges have come from their ranks. I think it would be a very, very retrograde step to exclude them.

Then we come to the point as to whether, having become judges, puisne judges of the High Court, they are eligible for the appointment of Chief Justice. At present they are not; but when the Chief Justice is on leave, the practice in Burma—and I believe in every High Court in India—is that the senior judge officiates as Chief Justice, whether he is a civilian or an advocate. So that he is fit to do the work. The general feeling, I think, among the Bar in Burma and in India is that the permanent appointment should not be that of a civilian. When the Bill that was referred to came before Parliament which aimed at removing that disqualification, as well as I remember there was opposition from the Bar of every Province in India, including Burma. That is the opinion of the Bar. If you want my private opinion, I am prepared to state it, but I am just now dealing with what I believe is the popular feeling.

Chairman : The popular feeling among the Bar?

Sir O. de Glanville : Yes, in legal circles.

Chairman : Quite.

Sir O. de Glanville : I am prepared to express my own private opinion frankly, that I am in favour of leaving it open. I would like to see the best man in the post. I think the Governor should have the power to appoint. That is my private opinion, which I know

is in opposition to that of the members of my own profession. They are pretty unanimously in favour of having this particular plum reserved for a practising advocate. Of course the Chief Judge has something more to do than ordinary judicial work in India; he is the administrative officer and has very great control over the whole of the subordinate judiciary. It is important to have a man of experience, and if that best man happens to be a civilian, speaking personally, I do not see why he should be barred.

The next question is the question of the age limit. My personal view is that the age limit is too low, and I do not see why a man should be compelled to retire at the age of sixty. At the present moment a man may be appointed a judge, and he has to retire at sixty, unless, in order to qualify for the pension, as he has not sufficient time, he is allowed to stay on till he is sixty-one.

Mr. Isaac Foot: What is the average age on appointment there, Sir Oscar?

Sir O. de Glanville: In order to qualify for a full pension a judge has to serve $12\frac{1}{2}$ years, a very short period, and then he gets a pension of £1,200 a year.

Mr. Isaac Foot: And his salary is what?

Sir O. de Glanville: The salary of a puisne judge is Rs. 4,000 a month in Rangoon at present. I think the Chief Justice gets Rs. 5,000; I am not sure whether it is Rs. 4,000 or Rs. 5,000, but the puisne judge gets Rs. 4,000, and he gets a pension of £1,200 a year after $12\frac{1}{2}$ years' service. Well, the result of having the age limit as low as 60 is that a man must be under 50 when he is appointed. That rules out quite eligible men who are over 50, and I think that this hard and fast rule of 60 is wrong.

Major Graham Pole: It makes a very heavy pension list.

Sir O. de Glanville: It does make a very heavy pension list, and it also deprives the High Court of men of very great ability who are not mentally incapacitated in any way and who are quite willing to continue but are compelled to go.

Mr. Isaac Foot: And a man over 50 stands a poor chance of being appointed.

Sir O. de Glanville: Yes; because he cannot qualify for full pension. In fact, I believe that Lord Reading, when he was Viceroy, laid down the rule that he would not appoint any old men who would have to retire at the end of a few years. Therefore, I am in favour of having some relaxation of that rule. Assuming that a judge holds office during His Majesty's pleasure, which is what I think it ought to be, and not removable on an Address of the two Houses in Burma, I do not see why he should not be continued after the age of 60. There might ordinarily be a rule that he should retire at 60, but I think it might be left to the discretion of the Crown, who again would act in consultation with the judges of the High Court or the Chief Justice and allow him to remain on for a longer period.

Major Graham Pole: But if an age were fixed, you would prefer 65 to 60?

Sir O. de Glanville: I would prefer 65 to 60, undoubtedly. Of course, the trouble arose, as many members probably know, when

there was no age limit, that one particular gentleman, I think, remained on till he was about 80, and they could not get him out. There were two cases, I think, which led to the introduction of this rule. I am strongly against the proposal that has been made that the two Houses in Burma, if they put up joint resolutions that a judge was incapable of doing his work, should be able to remove him. I do not think that the Legislature in a country like Burma are proper judges of that kind of thing. I would absolutely remove that from their power. If a judge is incompetent, of course, the other judges know it, and the Governor knows it and the Crown very soon gets to hear of it. If he holds office during His Majesty's pleasure he is asked to go and he goes. I think that is the solution of that portion of the difficulty.

Major Graham Pole : But it is usually a case of *ad vitam aut culpam*. The man has got to do something really wrong before he can be removed. It is not merely a case of His Majesty's pleasure, where he can be told to go.

Chairman : Yes, that is so.

Sir O. de Glanville : That is so. There have been cases in England where, although I do not think an Address has been moved, the judge has gone.

Major Graham Pole : We have had them in Scotland. We have had a special Act of Parliament there.

Sir O. de Glanville : As regards short-time vacancies the practice is—and I think it is very important—that they are filled by civilians. We should not have a proportion which in any way excludes that.

Mr. Cowasjee : Not always.

Sir O. de Glanville : It is objectionable in a small community such as we are for a practising barrister to officiate as judge of the High Court for a short period and then come back to the Bar, and therefore these vacancies are usually filled now by civilians, and I think ought to continue to be so filled. It is not necessary, I think, to lay down anything of the kind in the Constitution; it is a convention.

Major Graham Pole : Do you agree with the Federal Structure Committee that the practice of appointing temporary additional judges ought to be discontinued, or would you appoint civilians?

Sir O. de Glanville : I am speaking of officiating appointments; with regard to temporary additional judges it is difficult to say.

Major Graham Pole : They go back to the Bar.

Sir O. de Glanville : I do not want a barrister appointed as a temporary judge at all. We have had it happen and I think it is objectionable.

Chairman : I think there is a good deal to be said against that.

Sir O. de Glanville : But I do not think that the appointment of temporary additional judges can be discontinued absolutely, because if there is very great press of work and the judges are not sufficient in number to cope with it, the way out of the difficulty seems to be appoint an additional judge for a short period.

Major Graham Pole : Or they could sit longer.

Sir O. de Glanville: Judges are usually reluctant to do that or curtail their vacation. I think the same applies in England.

Chairman: We are getting rather into matters of detail on this, I think?

Sir O. de Glanville: I do not think, My Lord, there is any other point which I desire to mention.

Mr. Campagnac: I am in agreement with the view that has been expressed that the post of Chief Justice should be reserved for a barrister judge. I support that view, not because I think that civilian judges are less competent or less efficient than barrister judges; I do so in the interests of the High Court itself. There can be no question that the public do feel that a barrister judge has more independence than a civilian, and that in a political case it would be safer to trust to a barrister judge than to a civilian. That opinion may be absolutely and entirely wrong, but there can be no question that that opinion does exist in the public mind; and to avoid suspicion of that kind and to keep the High Court absolutely independent I think it is essential that the post of Chief Justice should be reserved for a barrister.

I may say, My Lord, that I do not think any member of the Bar makes that suggestion from motives of interest, because I do not think any practising member of the Bar has so far been appointed Chief Justice, except in the case of a barrister who came out as Government Advocate. I think as a rule the Chief Justice ought to be a man of wide experience, and if possible we should get a K.C. from England, who would bring fresh ideas to bear and introduce new life into the Court, and get us out of the sort of stereotyped routine to which we become accustomed in a country like Burma. As I say, therefore, I do not think barristers advocate this course from self-interest, so far as the barristers in Burma are concerned.

With regard to the number of civilians, I agree with Mr. Cowasjee that we should fix a maximum, because, if that is not done, a time will come when the High Court will be composed entirely of civilians; and that too, I think, would not meet with public approval.

On the question of age, My Lord, it may seem to Englishmen here that 60 is a very young age at which to retire, but perhaps I may say that there is such a thing known in Burma as "Burma head." We have known some judges who, even before 60, have found it very difficult to keep awake on the Bench, and there have been times when the court has had to adjourn while the judge completes his nap. So far as the average man is concerned, I think that 62 would be a sufficient age at which to retire.

As to the appointment of judges, I entirely agree that it should be in the hands of the Crown. There is no doubt that a Governor in Burma would consult the Chief Justice and probably would consult his Ministers, but the appointment should be made by the Crown. Only in that way would the appointments be above suspicion.

Sir O. de Glanville: May I rise to state perfectly clearly that I do not believe there has been a single case in which the public in Burma has distrusted a civilian judge, and I believe there is no foundation for the suggestion that they are even suspected of partiality in any case or class of cases.

U Chit Hlaing: Before taking part in the proceedings of to-day I beg to draw the attention of the Chairman and the Conference to the fact that I take part in these proceedings because I find that a reasonable attitude has been taken by the Chairman and Lord Lothian on the future prospects of the Burmese Constitution.

On the question of the High Court, if the British Delegates and the British Parliament have any respect for the good constitution of the High Court they should, at least, encourage the British policy of having barrister judges for the Burma High Court. As far as I know, a lot of judges on the High Court bench have been appointed from the Indian Civil Service. I have great regard for some of the judges of the High Court before whom I have had occasion to appear in years past, but some of them have been drawn from services in which they had some years of administrative experience, and from such services they went to a place in the High Court. They went with an administrative experience which in some respects prejudiced their views. That is one reason why I do not support the contention that we should have a civilian judge as a Chief Justice of the High Court.

As regards civilian judges, I think we should limit the civilian judges to, say, one-third of the Bench—not more.

Major Graham Pole: Do you mean a maximum?

U Chit Hlaing: A maximum. In my experience, I submit, though many of the barristers and advocates have been content to limit the age of a practising barrister or practising advocate to be entitled to appointment to the High Court Bench to 10 years, I think 10 years is too short. Ten years is too little from the date of his practice, because if he starts practice at 23, he will be only 33 by the time he will be entitled to be selected. I think an age limit should be given and he should not be younger than 40 years of age, whether he has practised for 10 years or 15 years. As far as I know no barrister has been appointed in the High Court in England younger than 40 years, and I know that some of them hold the position here as old as 65 or 70.

Mr. Isaac Foot: 80.

U Chit Hlaing: I know some of the barristers here practising as old as 70 or even older, because the weather permits them to work harder here than in Burma.

Chairman: I am told that the youngest Judge appointed to a High Court in India was 39, and he was one of the best Judges they ever had.

U Chit Hlaing: Yes; that may be an exception; but as far as I have noticed, especially in Burma, very few men will be fit to carry out the great responsibility of a High Court Judge at that age, and to be above politics particularly. My friends have suggested that the Crown should appoint the judges. I agree with regard to the Crown appointing them but, at the same time, it ought to be on the advice of the Ministers. Some say the Ministers should not partake in it, but I believe Ministers in the new constitution should be allowed to partake in it, because the Ministers, once they are appointed to be Ministers under the new constitution, will be Ministers selected by the Assembly, and they are supposed, at any rate according to the proposed scheme, to be above party politics.

Chairman: When they are Ministers? That is the first time I have ever heard that suggested.

U Chit Hlaing: That is a proposal we want to place on the new constitution: to be above party politics.

Major Graham Pole: Not the Ministers, surely? Are not the Ministers going to stand for their Party in the Assembly?

U Chit Hlaing: Some say—even now, some of my friends have stated—that the President of the Council had also been above party politics. In my experience of those Presidents whoever they may be, they are not above party politics—including Sir Oscar de Glanville, who was appointed the leader of the Independent Party soon after he was not selected for the Presidency, which he tried for, for the second time in the last three years.

My friend, Sir Oscar de Glanville, said 65 is much too old to serve. I am afraid Sir Oscar de Glanville is about that age. I do not think he will be fit to work as a High Court Judge with the responsibility he would have if he were appointed. Especially in Burma, I assure you My Lord, a man over 60 would not be fit to hold the responsible position of a High Court Judge. He may be fit to be Governor of a Province, where he has got everything cut and dried for him to act upon; but as a judge he has to hear about twenty or thirty cases a day and pass judgments almost a few days afterwards. He would not be able to cope with that especially with Burma heat and Burma experience.

As regards my friend, Mr. Cowasjee, he suggested that Judges should be selected without distinction of race, caste or creed, and I fully endorse his views. Though I am a Burman myself, and I should like to see Burmans getting on, in respect of the High Court, I think no distinction as to race, creed or caste should be made in the selection of High Court Judges. I will be pleased to see, if possible, a Chinaman on the High Court Bench as well as a Karen on the High Court Bench, in preference to a Burman, if these two gentlemen are better fitted than the Burman. I know my view will not be followed by others, but to show my high regard for the High Court Judgship I think a High Court Judge should be above creed, race or caste. As for me, my views are known to the Burma Government and the Burmese officers, that I will never, never, accept a government post in my life. I have taken my stand on that for many years, and I am only making these remarks for the sake of the country, not for any self-interest for myself or for my countrymen, but I am doing it in the cause of my country.

With regard to the point about civilian judges, I have great respect for some of them. Some of my best friends are still among the High Court Judges. Generally speaking, most of the civilian judges do not command the same confidence of the public, especially in political matters, and I consider that the constitution of Burma should provide a clause that no Judge of the High Court should be elevated to any Ministership in future, because from the experience we have had, almost all the Home Members so far have been promoted from a High Court Judgship.

Sir O. de Glanville: All of them?

U Chit Hlaing: All of them, so far, and I do not agree with some of the members of this Conference who, I know, will contend that Burmans should be raised from a High Court Judgeship to the Home Membership or a Ministership. Why I say that is this. I know, from personal experience, that most of the barristers and lawyers desire to get a High Court Judgeship, or a Ministership, and when they get a High Court Judgeship they still aspire to become a Minister from that post. Now, how can a High Court Judge, who aspires to be a Minister from Rs. 4,000 a month to Rs. 5,000 a month, be free from an aspiration to a higher position, especially as now, as I know by my experience, they all claim to rise and rise, and the highest rise a Burman can get is for the officiating post of a Governor, as instanced by Sir Joseph Maung Gyi?

When a man becomes a practising barrister and is then raised to a High Court Judgeship, and can then become Home Member and aspire to be Acting-Governor of Burma, how can he be entirely free in his deliberations and decisions as a Judge of the High Court? He cannot be free when he is aspiring to the post of Minister, and possibly to the Acting-Governorship of Burma. I think, therefore, a High Court Judge should never become a Minister or Governor of Burma under the new Constitution.

As regards tenure of office and age limit, my friend, Sir Oscar de Glanville, suggested 12½ years' service as a High Court Judge should be sufficient to entitle a man to a pension. I think that will work fairly well; if a man is appointed a judge at the age of 40, after 12½ years he will be 52½; if he is appointed at the age of 45, he will be 57½. I think an age limit of 60 is a reasonable figure for a High Court Judge in Burma, in view of our experience.

Major Graham Pole: You are quite prepared to face all the extra pensions that would fall on the Burma revenues?

U Chit Hlaing: That does not matter so much. The important point is that if we fix the age limit at 65 the extra 5 years will be an important factor in blocking the promotion of good men who might otherwise be appointed. If there are three Judges and they are kept on for an extra 5 years each there will be some men of about 50 years of age who are fit to be High Court Judges, but owing to the age limit of their service they may be pensioned off as District and Sessions Judges, and may not be able to become Judges of the High Court. The raising of the age limit by 5 years, therefore, will prevent a number of District or Sessions Judges from becoming High Court Judges, and therefore I submit that the age limit should be retained, as at present, at 60.

U Ba Si: I should like to say just a few words. I should like the Conference to consider carefully, My Lord, the points put forward by my friend, U Maung Gye. From what has been said by various members of the Conference, it would appear that there is some fear that political influence may be brought to bear in the appointment of these Judges of the High Court. U Ni, however, has cited many Dominion Constitutions where the appointments are made by the Governor-General on the advice of the Cabinet, and, further, I should like to point out that in countries where there is no Crown, if the same fear of political influence were to be felt, these appointments could never be made at all.

I think in our case, also, we have some judges appointed direct by the Crown from outside Burma. In such cases, can we say that the appointments are quite free from political influence of the party who are in power? In future, I submit, no outsider should be appointed as a judge of the High Court of Burma.

With regard to tenure of office, age limit, and so on, I do not think that this Conference should fetter the future Government and the Governor-General. They should be given the power to consider these matters. If we have among the civilians a man of outstanding ability I do not see why he should not be given the appointment of Chief Justice, but I want this to remain in the discretion of the future Government of Burma.

As to the age limit, I think there should be no objection to raising the limit to 65. A man may be quite as strong and able at 65 as at an earlier age. It all depends upon the individual and upon his health and capacity.

Lord Winterton: I hope we shall soon be ready to come to a decision on this matter. I only want to raise one question, and I will put it as quickly as possible. It concerns the removal of a judge. That is very unlikely to arise, but some procedure should be laid down, and I would put forward as a suggestion for consideration that the procedure should be the same as that which prevails in a number of overseas countries of the Empire, namely, that the judge should hold his office on what are known as terms of good behaviour. If the Governor wishes to remove him on the ground of misbehaviour, he should report to the Judicial Committee of the Privy Council, which would consider the matter from a judicial and juridical point of view, and if it so decided, an Order-in-Council would then be made for his removal. I am sure the Burman Delegates would not like this matter to be dealt with by Parliament here, and I should see great objections to leaving it to the Burman Legislature. It should be done by the highest judicial authority in the Empire, namely, the Judicial Committee of the Privy Council. I do not suggest that such a case would arise, but it might arise, and provision should be made for it. The provision must be laid down in the statute, otherwise a difficult position would arise. The ultimate deciding power must be given to some authoritative body in the matter. It should not be left to any individual, but to some body, and I suggest the Judicial Committee of the Privy Council.

Major Graham Pole: That is, of course, the highest judicial body of Burma also.

Mr. Cowasjee: How is the Judicial Committee going to exercise its appellent jurisdiction? Who will be the person to hold the necessary enquiry in the Province?

Lord Winterton: Well, I would hesitate to enter into a legal argument with Mr. Cowasjee, whose knowledge is much greater than mine. The Governor would report to the Judicial Committee all the relevant circumstances. The Judicial Committee would then decide, and an Order-in-Council would be made. If they decided in favour of the removal of the judge, an Order-in-Council would be made directing his removal.

Mr. Cowasjee: Then your view is that the Governor should hold an enquiry and report to the Judicial Committee?

Lord Winterton: I am not tied down to the details. Obviously the Judicial Committee would have to be satisfied that the Governor had enquired into the matter. Whether he should hold a formal enquiry or not I do not know.

Mr. Cowasjee: In the absence of a formal enquiry the Judicial Committee would not have the materials on which to act.

Major Graham Pole: The Judicial Committee could ask for such materials as it thought fit.

Mr. Cowasjee: From the Governor?

Major Graham Pole: The Judicial Committee could lay down such conditions as it thought fit.

Tharrawaddy U Pu: May I ask one question? The noble Lord mentioned overseas. I want to know whether he meant by overseas, Crown Colonies or any Dominion like Canada, Australia and so on?

Lord Winterton: I am obliged to you for asking that question, Tharrawaddy U Pu. I should have made it clear. I think this procedure is in operation in the Crown Colonies; I do not think it is in operation in the Dominions. But, if I may say so, it makes little difference. The Judicial Committee is the highest appellate Court of the Empire, and I maintain that this matter should be dealt with by the highest appellate Court of the Empire, and not, if I may use the phrase, by any set of politicians whether in Burma or in this country. Therefore I would not allow either the Burman Legislature or the House of Commons to have a say in the matter; I would only allow the highest appellate Court in the Empire.

Tharrawaddy U Pu: My Lord, I am very glad to be enlightened on this point by the noble Lord. We have not come here to copy the methods of administration in any of the Crown Colonies. That is our first point. We do not like Burma to be treated as a Crown Colony. We came here for the real substance of independence and not for the mere show. We want the real substance. I want the powers now exercised by the Governor who is responsible to the Parliament to be transferred to the people of Burma as much as possible. We want complete responsible Government. We are now going into the question of safeguards, to see whether we shall be able to accept the constitution evolved with the safeguards now put to us in this Conference. As a matter of fact we want full and complete Dominion Status.

Chairman: I do not want to stop you, but you are rather getting on to general considerations, are you not?

Tharrawaddy U Pu: I am very sorry. I am replying to Lord Winterton's remark. That is the first reply; then I am coming to the question of the High Court.

Chairman: Very well.

Tharrawaddy U Pu: Now, to return to the discussion of the High Court. As a public man of Burma I beg to lay my views before this Conference. With regard to the recruitment of High Court Judges from the Indian Civil Service, however much I may admire the Indian

Civil Service, I am sure the people of Burma would like to see the recruitment to the High Court Judgeships from the Indian Civil Service abolished. We have had enough of Indian Civil Service Judges in the High Court, and we have had enough experience of Judges who are sent from England—recruited from England by the Secretary of State. We have no grudge against any of them, but we want the powers in the hands of the people. The powers now being exercised by the Governor should be transferred to us in respect of appointment of Judges to the High Court and as regards recruitment, appointments and everything. We ought to be trusted with the administration of the new Government. Unless you have trust in us you will never agree with our views. First of all, our discussions in this Conference must be based on trust in the capability of the Parliament to rule its own country.

As regards appointment this matter may be left entirely in the hands of the people of Burma. The people of Burma will influence the Ministers who will be called the Cabinet. The Cabinet Ministers will be the real representatives of the people, so I am asking you to hand over the department called the High Court to the control of the people and not to leave it in the hands of the Governor.

Now, my learned and great friend Sir Oscar says he wants an impartial and independent High Court.

Lord Winterton: Do you mean there is to be popular election to the High Court when you say hand it over to the control of the politicians? Would you explain what you meant by that?

Tharrawaddy U Pu: I said the Cabinet.

Lord Winterton: You said the people.

Tharrawaddy U Pu: The people's representative in the Legislature, by their own elected members of that Legislature, from which the Ministers would be elected to form a Cabinet to rule the country. Do you follow me?

Chairman: Yes, I follow you.

Tharrawaddy U Pu: I have made my position clear?

Chairman: I follow you.

Tharrawaddy U Pu: With regard to the High Court being independent and impartial, we, the Burmese people, would also like to see the High Court judges really independent and impartial. They must not be influenced either by the Cabinet or by the Governor of the Province. I would not like to see them subject to an influence from either side. My learned and great friend Sir Oscar said if the judges are to be appointed by the Government they will be subject to a certain amount of influence from the Cabinet.

Sir O. de Glanville: No, no; I said they might be appointed not for their efficiency as judges but as a reward for party services.

Tharrawaddy U Pu: I see. Well, whatever it may be, it comes to this, that for some reason the judge might be under a sort of obligation to the Ministers. That is how we may take it. Well, if an appointment is made by the Cabinet my learned friend thinks that the judge might be under a sort of obligation to the Cabinet. Now, if the judges are to be appointed by the Governor, do not you think

that they will be under a sort of obligation to the Governor? You have to remember that, My Lord.

Chairman: I agree; but that was not the point, of course. You are not dealing with the point. The point was this—not that the man after his appointment might necessarily be under the influence of the Governor or the Ministers, but that he might tend to be appointed not for his judicial capacities but for his political services. That was the point that Sir Oscar made, and it is quite different.

Tharrawaddy U Pu: I do not think that such an evil would arise in Burma. That shows the mistrust of the people of Burma. That shows that there is some amount of mistrust of the future Ministers.

Chairman: And you say they will get the judicial officers they deserve; is that it?

Tharrawaddy U Pu: Only the best men would be recommended by the Cabinet. If the Cabinet recommended the appointment of an unqualified man or a bad man certainly the people of Burma would rise up against the Cabinet. There would be a sort of public scandal there. People would not remain quiet if an act of that kind was committed by the Cabinet of the day. I am sure the people would not allow it. Protests would be made to Parliament. Hundreds and hundreds of telegrams would be sent protesting against the appointment; they would not remain quiet.

Mr. Isaac Foot: That means that the people will be having a voice in the appointment of the judges. You suggest that the people, by their pressure if they disapprove, may be having a voice in the appointment of the judges?

Tharrawaddy U Pu: That is a right which the people of Ireland, the people of Australia, the people of Canada and of all the self-governing Dominions are exercising. If such things are good in the case of the fortunate people—if I may be permitted to use the expression—of those Dominions, why should not the people of Burma be trusted in the same way? Let us work on the basis of trust. I beg of you to put us on trial and see what will be the result. You will find that the Burmans of to-day are quite different from the Burmans of a hundred years ago.

With regard to the post of Chief Justice, we have been discussing the question of whether a civilian should be promoted to the post of Chief Justice of the High Court. I should like to point out, however, that this point was settled some years ago—I think in 1919—by Section 101 of the Government of India Act. Section 101 of the Government of India Act provides that no judge other than a barrister judge is entitled to become Chief Justice of the Burma High Court. I do not think, therefore, we should go back on the advance which has been made by the Government of India Act. We can only have barrister Chief Justices in Burma. Sir Oscar, I am sure, will support me on that.

Sir O. de Glanville: May I ask U Pu if he wishes to exclude locally qualified men—advocates who are not barristers?

Tharrawaddy U Pu: No; I am confining myself to the qualification of the Chief Justice of Burma and the question of whether a civilian can become Chief Justice of Burma or not.

Chairman: And you do not want him to be able to do so?

Tharrawaddy U Pu: No I do not want it, and in that I am supported by the proviso to Section 101, sub-section (3) of the Government of India Act.

Chairman: I think we have had that stated already.

Tharrawaddy U Pu: I do not think we need go further into the point of whether a civilian judge may become Chief Justice of Burma. We must always have barrister judges. I am glad to think that point is settled.

As regards the appointment of judges, please allow us—the people of Burma—to look after the appointment and removal of judges of our High Court. These rights are being exercised in Ireland; my friend quoted from Article 68 of the Irish Constitution to that effect. The representative of the Crown in the case of Burma would be the Governor-General. Let him appoint the judges, but he should be made to act not on the advice of the Chief Justice, but on the advice of the Cabinet alone. The Chief Justice might send in a list of names to the Governor-General of Burma, and I am sure that the Cabinet as a matter of course would support one of the candidates suggested by the Chief Justice. The Chief Justice would not send in one name only; he might send three. The Cabinet would know who is who in Burma; it would know as much as if not more than, the Chief Justice. The Chief Justice might not know the inner life of the person whom he might recommend, whereas the people of the country would know about it. The names of barristers, A, B and C, would be sent up to the Governor-General. The Chief Justice of the High Court would not be in a position to know the qualifications of these gentlemen, whereas my friends concerned in the future Government of Burma would know all about them. I suggest that we should be allowed to have control over the appointment of judges.

With regard to removal, the Legislature would not remove a judge unless he was proved to have been guilty of misbehaviour and incapacity. Of course, the Cabinet and Legislature would consult public opinion. We have had, and shall continue to have, the advice of such people as Sir Oscar de Glanville, Mr. Cowasjee and Mr. Campagnac, and I am sure the Legislature would not go against the opinions of these experienced men who are practising at the bar in Burma. The right of removal of a judge in the Dominions was entrusted to the people of those Dominions through their Legislature, which is composed mostly of elected members. I beg of you to treat us as you treat the people of the self-governing Dominions, and not like the Crown Colonies. Give us a trial. Allow us to do what we think proper for Burma as regards the appointment and removal of judges. According to your own British Constitution, judges may be removed by an address of both Houses of Parliament. That is the British Constitution. If this law is good for you, I submit that it must be good for us.

Mr Wardlaw-Milne: Are you quite sure that it is good for us?

Tharrawaddy U Pu: I do not know whether you keep any bad law on your Statute Book. As long as you allow this piece of law in your Statutes we must assume that it is good law.

Mr Wardlaw-Milne: Does the speaker suggest that everything in the law of this country is to be accepted as good for Burma?

U Maung Gyee: I should like to ask whether the power given under this law has ever been used by Parliament in this country.

Mr Wardlaw-Milne: I cannot say.

Tharrawaddy U Pu: But what's your experience on that point?

Mr. Wardlaw-Milne: I have no experience.

Tharrawaddy U Pu: In the absence of proof to the contrary, we must assume that your law is a good law.

Chairman: It has never been used in the lifetime of anybody here present.

Tharrawaddy U Pu: I hope the same will be said of Burma.

Major Graham Pole: It has been used in a Scottish case. The Sheriff of Argyll was removed in that way. I do not think it was by an Address of both Houses; a special Act of Parliament had to be brought in.

Tharrawaddy U Pu: So far as the appointments of judges are concerned, we do not mind them being entrusted to the Crown here, but the appointments should be made by the Crown here on the nomination of the Governor acting on the advice of the Cabinet.

U Maung Gyee: Who will be the representative of the Crown in Burma?

Tharrawaddy U Pu: The Governor-General. If the appointment is not to be made by the Governor-General of Burma, it should be made by the Crown.

Chairman: Yes, I understand your point.

Tharrawaddy U Pu: I mean, acting on the advice of the Governor-General of Burma, who shall act on the advice of the Cabinet.

Chairman: I quite appreciate your point.

U Tun Aung Gyaw: I fully endorse the views of U Chit Hlaing and Tharrawaddy U Pu; but I want to add something more with regard to the selection of the judges. The qualifications should be based not merely on their academic character and services, but judges should have a knowledge of Burmese and should be able to read and write Burmese. At present, it is rather expensive for the clients to have the records translated from Burmese to English.

Tharrawaddy U Pu: Yes, that is an important matter.

U Ba Pe: I will offer a few observations from the point of view of the man in the street. I am neither a lawyer nor a civilian, but only an ordinary member of the public there. As a man in the street I should like to make some observations after hearing the opinions of my friends who are in the legal profession.

The first point is, who is to appoint the judges of the High Court. There seems to be a difference of opinion. On the one hand my friend Sir Oscar de Glanville and others want the judges to be appointed by the Crown. On the other hand my friend U Maung Gyee and others want the judges to be appointed by the Crown, no doubt, but on the advice of the Cabinet—by the Crown, meaning of course, the Governor-General who will be the representative of the Crown. The reason

advanced by Sir Oscar and others is this: once you give the power to the Cabinet to interfere or to have a say in the appointment of the judges you will be introducing political influence. As we want the High Court to be entirely independent, and as we want it to be filled with really competent and qualified men, we have to consider this suggestion very carefully. I have been following the debate and considering this matter, and I have come to the conclusion that I cannot agree to the suggestion that the Crown alone should be responsible for the appointments; because the political influence—the so-called political influence—is exercised not only at the time of appointment but after the appointment, in Burma. This is the experience of the man in the street. I will explain. The political influence in Burma is exercised at the great club there. It will be a surprise to many, but it is a fact that Judges of the High Court, some of them, are members of certain clubs where many things are done which you would not allow in this country. This state of affairs will continue, I know. In fact there is a rule in Bengal, I believe, to prevent such things, that Judges are not allowed to be members of any club.

Mr. Wardlaw-Milne: Is it a new rule? I have never heard of it.

U Ba Pe: That is the rule in Bengal.

Chairman: The judges are excluded from all clubs?

U Ba Pe: Yes, because there is a good deal of intrigue going on in these clubs.

Mr. Wardlaw-Milne: I strongly object to this.

Chairman: Who makes the order for the exclusion of the Judges?

U Ba Pe: It is a sort of understanding and rule now practised in Bengal.

Lord Mersey: May they go to private houses?

U Ba Pe: Well, I suppose they can; but that is the actual state of affairs there. I am just acquainting the members of the Conference with the real state of affairs. They can attach any importance they like to it. At the time of appointment the fear is that the Cabinet may appoint a man as a Judge of the High Court for party services. Now, you have the qualifications there. In Burma we have at present civilian judges—that is, judges drawn from the Indian Civil Service—and then there are other judges drawn from the Judicial service. There are three classes altogether. One is from those practising in the High Court. They are barristers, pleaders and solicitors. Then there are the members of the Indian Civil Service serving in the judicial branch. Then there are others in the Judicial service men who have been barristers practising at the Bar for some time and who have joined the Service. So we have a wide field in Burma at present. I cannot understand how you can appoint a man from the Civil Service or from the Judicial Service for party services. I cannot understand it. Then as regards those to be drawn from the Bar, the age limit and the years of practice, and so on, will have to be taken into consideration, and even if it is possible in theory to reward a man for party services, in practice it will be found practically impossible. On all grounds I do not attach much importance to this argument that if you allow the Cabinet to have a say or to interfere in the appointment there will be political influence. I cannot attach any importance to this argument

Then I come to the question of removal. It was suggested that on an Address by both Houses of the Legislature the judge should be removed. On the other hand, it was pointed out that by allowing that there will be undesirable public influence brought to bear on the question, and that it would be best to leave the matter to the Governor. Now, My Lord, how is the Governor going to act? If a judge is accused of committing all sorts of misbehaviour, or is said to be incapable of carrying out his duties, who is going to decide in the first place and lodge the complaint? Is the Governor going to set up a sort of Criminal Investigation Department over the judges? Otherwise, how is he to know? There must be some initiative on the part of somebody to do it. Another thing is that if the judges know that the public will be watching their action, not to interfere in their work, but to see that they are faithfully carrying out their duties, it will be a very good check on them not to misbehave. On the whole, therefore, I am of opinion that the existing rule both in this country and in Ireland, that on an Address of both Houses of the Legislature a judge should be removed, is a good one.

Then there is one feeling—I do not think it is directly relevant to the subject under discussion, but perhaps I may be permitted to refer to it. As my friend Tharrawady U Pu pointed out, the idea of coming to this Conference is, of course, to meet face to face the representatives of the British Parliament and to place our case for full Dominion Status as we call it in Burma—that is, full responsible government on Dominion lines—before them. Well, we must face the practical difficulties. There may be necessary, in the interests of Burma, for the transitional period, certain reserves and certain safeguards. All men of common sense would have to admit that; but the idea seems to be with a section of the members here to try and exclude as many departments as possible from popular touch. This morning I received a telegram that makes me rather nervous. With your permission I will read it.

Chairman: From whom is it?

U Ba Pe: This is a telegram sent from a place called Meiktila in Upper Burma.

“ Meiktila District Conference representing all political parties resolved wire Wunthanu delegates in London ”—

that is myself and my friends here—

“ to accept only Dominion Status with Burmese control over Defence, Commerce, Currency, Exchange. Ba Yin Legislative Councillor Chairman.”

That indicates the feeling in Burma to some extent, and if not in the whole of Burma at least on the part of a large section of the people.

In approaching these various subjects one by one, I should like to request the members of this Conference to try to find out the least extent possible of limitation and reservation. Instead of trying to find out the largest measure of control which can be given to the people my feeling is that there is an attempt to limit things and to find ways and means for taking away as much as possible from the control of the people. After all, you cannot impose a constitution on a country and work it unless you have the consent of the people of that country. Even in discussing this simple matter of the High Court

there seems to be an undercurrent of feeling to try to whittle down the future reforms before even they have been granted. That feeling should not be shown in the discussion; otherwise whatever good we may be able to do here will be wasted, and the whole country will not accept the Constitution.

Mr. Wardlaw-Milne: I should like to intervene to refer to two subjects. One is that mentioned by U Ba Pe just now, and on that I should like to say at once that as a member of Parliament in the last few weeks I have received dozens and dozens of telegrams from my constituents, telling me that the most dreadful things will happen to me if I do not do exactly what they want and demand that the Government shall do precisely what they want. My answer is that I am not there to represent other people's views, but to put forward the views I think best for the country, and I suggest, with great respect, that that is the attitude which every member of this Conference should take up. If you are going to be guided by what somebody else tells you we shall never get anywhere at all. It is necessary to consider what is best, and not what somebody at some distance away thinks best. I do not say that in any school-masterly way, but we have to deal with problems in the way that we, sitting round this table and with the knowledge which we have, think best, and not from the point of view of what somebody who sends telegrams from far away thinks best.

The real point, however, with which I wish to deal is this. U Ba Pe made some remarks regarding what went on in the European clubs in the east. I suppose that is what he meant. I cannot allow that to pass without comment. I do not pretend to know what may go on in the Pegu Club, to which I suppose he referred, and I cannot speak with knowledge as to that, though I have been there several times, but I should very much doubt if the influences to which he refers are predominant there. But I can speak with knowledge of India, and I can say that in the twenty years during which I have known judges, members of European clubs in both Bombay and Calcutta, I have never heard of a complaint from any European or from any of my hundreds of Indian friends of any action taking place in these clubs which could be detrimental to the interests of any litigants in the High Court.

Tharrawaddy U Pu: Are there any Indians in these clubs?

Mr. Wardlaw-Milne: There are many Indians in certain of the most prominent clubs of Bombay, as U Pu knows. I think it is very unfair to make these statements. His statement that judges of the High Courts in India are not members of these clubs is not, I understand, correct. I understand that is not so.

At the present moment there are, in fact, a number of judges of the High Court living in the clubs of Calcutta.

U Ba Pe: May I remove a misunderstanding? *Mr. Wardlaw-Milne* said that we should try and do our best, and I quite agree, but in doing that we should take into account the feeling of the country. If you ignore that you are acting autocratically.

Chairman: May I say, first of all, that the very purpose of this Conference is that we may have all views fully expressed here both from Burma and also from my friends on my right, and I do not think it ought to be suggested that there is any desire either to burke discussion or to prevent the full expression of views. I think it is better

also not to suggest that any members of the Conference want to whittle away this, that, or the other. Let us all quite frankly express our views "without fear, favour, or affection" as the phrase has it, on all these matters.

I do not think I can attempt to balance all the different views expressed. As usual we have a great deal of difference of view on the details. I mean such details as the appointment of judges from among civil servants, the appointment of the Chief Justice, the question of the age limit, length of tenure, salaries, the number of judges, and so forth. On all these things a great number of different views have been expressed. But there has been on one point a considerable difference of opinion. We are all agreed, of course, that the judges should be independent and unprejudiced—we have got as far as that—but we are not agreed exactly as to the method of appointment. We are agreed that they should all be appointed by the Crown, but at that point difference of opinion begins, as to whether the appointment should be by the Governor, or whether the Governor should give his advice or whether advice should be taken from the Ministers themselves. Many people think that would introduce an unfair political element into it if the last-named procedure were adopted. Others have said, on the other hand, that that is the practice or anyhow the law—because practice often differs from the law—in many of the Dominions. On that point there is considerable difference of opinion, and that difference I shall have to record. I will do my best to report on all these points as fairly as I can.

(The Committee adjourned at 1.40 p.m. and resumed at 2.45 p.m.)

HEAD 8.

THE SERVICES.

The following points for discussion in connection with this Head were drafted by the Chairman:—

(i) *Position of existing members of the All-India Services and of officers now serving in Central Departments to be taken over by the Government of Burma.*

(ii) *Public Services Commission.*

(iii) *Future method of recruitment to the All-India Services at present recruited by the Secretary of State.*

(iv) *Rate of Burmanisation of the Services.*

(v) *Composition of the Medical Service.*

U Ba Pe: In approaching this question of the Services of Burma, I am approaching it from the viewpoint that Burma is going to have real responsibility, so I may differ slightly from those who are going on a different basis than mine. We have at present what are known as all-India Services and Provincial Services. We are not, of course, concerned with the Provincial Services at present—at least here in this Conference. We are concerned, first of all, with what are called the all-India Services.

Chairman: And the Central Services.

U Ba Pe: I will come to the Central Services later. By all-India Services I mean the Indian Civil Service, the Imperial Police, the

Irrigation Branch of the Engineering Department and the Indian Medical Service.

The first thing that we must agree upon without further discussion is that all the Services in Burma, on the introduction of the new constitution, should be granted their rights and privileges as at present laid down in the Government of India Act. That will, I think, prevent any fear that they will suffer anything at the hands of the new Government. I should like to read a quotation from the Report of the Services sub-Committee of the Indian Round Table Conference at the top of page 104 of the proceedings of that Conference :—

“ Inasmuch as the Government of India Act and the rules made thereunder by the Secretary of State in Council guarantee certain rights and safeguards to members of the Services, due provision should be made in the new constitution for the maintenance of those rights and safeguards for all persons who have been appointed before the new constitution comes into force.”

I am in entire agreement with that.

When the constitution is put into operation there may be members who are not willing to work any more in Burma. As far as our experience goes when the Montagu-Chelmsford Reforms were introduced into Burma we had very few officers who were dissatisfied with the new state of affairs and went away. There may be some. I hope the number will not be great, because the relations between the Services and the people of Burma are very cordial, and I do not anticipate any serious trouble. At the same time, we should give them this right that they should, if they think it not worth while to remain in the Service in Burma, be allowed to go away on what is known as proportionate pension, and I would allow them to take this opportunity, not during the first year of the new reforms, but up to the fifth year of the new reforms. That would give them the right to go away on proportionate pension up to the fifth year of the introduction of the new constitution. But, as I have already said, I do not anticipate that there will be many who will take advantage of this provision.

Coming now to the question of recruitment, on the institution of the new reforms, the members of the Indian Civil Service, the Indian Imperial Police, and so on, will, of course, become members of the Burma Civil Service. Though their rights and privileges will remain the same as they enjoy at present, they will have no further connection with their fellow officers in India, because Burma will be separated from India. In recruiting for these Services before the new Government gets into full operation there will arise questions of retirement, dismissal, removal, death, resignation, and so on. Those are matters for serious consideration, of course; and then we shall have to recruit, from time to time, to fill up the cadres of these Services. I am not agreeable to laying down any definite rules now. I would leave the whole matter to the new Government. I do not want to fetter the new Government in advance by laying down rules and regulations. All I want is that these Services should continue under the new Government, and that the new Government should have the opportunity of examining the whole position and of bringing in new regulations and new cadres and whatever is, in their opinion, necessary for the country.

I say this because we know for a certainty that there are many posts which need not be filled up after the introduction of the new Reforms. I am also saying this because we consider the agency at

present employed in the administration is very costly. The expenditure can be reduced, but at the same time we should take care that the efficiency of the Services is in no way reduced.

In any case, I think it is for the new Government to deal with these matters. In the meantime I would simply content myself with guaranteeing to the existing members of the Services their rights and privileges. I should allow the new Government to decide on the form of recruitment in the future, and so on. I would not entrust it to the Governor or any other outside agency.

In my opinion, as soon as the new Constitution comes into operation a Public Services Commission should be appointed. The members of that Commission will be appointed by the Governor on the advice of his Ministers; I do not want the Cabinet alone to do this. The Governor should appoint the members of the Public Services Commission for a term of years, and they should hold office during his pleasure. The Government of the day, however, will have the right to recruit, but it will recruit the Services through the Public Services Commission.

Mr. Wardlaw-Milne: I should like U Ba Pe to make that last sentence clear; I do not follow exactly what he means. Is it that it will be done by the Commission, but that the Government will also recruit?

U Ba Pe: No the Government will decide on the cadre, and so on, but the filling of the posts, the recruiting, will be done by the Public Services Commission and not by the Government, because I want to keep political and other influences away from the appointments.

Mr. Ohn Ghine: Does U Ba Pe mean that the terms of service emoluments and so on will be decided by the Government, but that the actual selection of the men for the various posts will be made by the Public Services Commission?

U Ba Pe: Exactly; that is what I mean.

Mr. Cowasjee: The conditions will be decided by the Cabinet?

U Ba Pe: The Government of the day will decide, yes.

Lord Mersey: I understand U Ba Pe says he does not wish the Services to be subjected to any suggestion of political influence, and for that reason he would abstract them from the control of the Cabinet?

U Ba Pe: For appointments?

Lord Mersey: Yes.

U Ba Pe: Yes.

Lord Mersey: But would that not apply with much greater force to the appointment of the judges?

U Ba Pe: They are quite different, I think; they are on a different footing altogether. In the case of judges, the Ministers simply advise the Governor who, as representing the Crown, will use his own discretion?

Lord Mersey: He would use his own discretion?

U Ba Pe: Yes, because the number of names suggested will not be confined to one. They may recommend more than one, and in any case the appointment of judges should ordinarily be on the recommendation of the Cabinet, and the actual appointment should be made by the representative of the Crown.

Chairman : I should like to ask you a question about the Public Services Commission. You have said, I think, that it should be their duty to do the recruiting. Do you propose to give them any other duties?

U Ba Pe : In all cases of censure, withholding promotions or increments, reductions and similar cases, the Governor will always, and must always, get the opinion of the Public Services Commission before he passes the final order. That will be one of their most important functions.

Chairman : Would you give individual members of the Services the right of appeal against a decision to the Public Services Commission?

U Ba Pe : Individual members?

Chairman : Yes.

U Ba Pe : In the case of censure on a particular officer, it will be an individual case. In the case of an appeal by an officer against dismissal it will be an individual case and not for the whole Service.

Chairman : What about the case of non-appointment, or an officer being passed over?

U Ba Pe : You mean as a grievance of the whole service?

Chairman : No, as a grievance of the individual.

U Ba Pe : I have no objection to giving them an opportunity of getting their grievances redressed. I believe that an officer aggrieved by being passed over and so on can make representations to the Government.

Sir O. de Glanville : May I ask a question? *U Ba Pe* says—and he is correct, of course,—that at present an officer who is passed over can memorialize the Governor or the Governor in Council or the Minister whoever he may be. Is he suggesting that in future such officer should appeal to the Public Services Commission?

U Ba Pe : He can do so under the present rules.

Sir O. de Glanville : At present if an officer is aggrieved about non-promotion, he can appeal either to the Minister or the Governor in Council. That is the present practice. Is *U Ba Pe* suggesting that in future, instead of appealing in that way, he should appeal to the Public Services Commission?

U Ba Pe : I will differentiate there. If he thinks he is passed over unfairly he can go to the Governor or Minister. I would not allow him to go to the Public Services Commission in such cases.

I do not propose to go into the ratio of appointments between the listed, the European element and the other elements; I would rather leave those details to the new Government to decide. But as regards the European element, it should be left to the Government to decide what proportion they consider to be in the interests of Burma, and I do not agree with the fixed percentages mentioned in the notes circulated by the Secretariat.

I now come to the question of Central Services. Those who are in the Service in Burma at present will have to be taken over by the new Government of Burma, and they will be, and should be granted, as in the case of other superior Services in Burma, all rights and privileges. They will be on the same footing so far as those rights

and privileges are concerned. As for the recruitment for these various Services, I would follow the same procedure as in the case of other Superior Services at present in Burma, and I would leave it to the future Government to work out the details. Some of these officers in the Central Services may be on loan from the Government of India, and the cadre may be so small that it might not be possible to have a separate Service in one or two Departments for both India and Burma. In that case it would be to the advantage of Burma as well as of India to have a loan of those officers from India. So before we work out the details I do not think it is possible for us to lay down any definite rule, except the principle, which would be that we must have trust in the future Government of Burma and should leave it to work out the details. But in other respects, the members of the Central Services will come under the same case as the Indian Civil Service, the Imperial Police and others, will have the same rights and privileges granted to them, and can retire on proportionate pension during the first five years. I think that is about all I have to say on this matter.

Lord Winterton: My Lord, I have listened with great interest to what U Ba Pe has said. There are many things he has said with which I think probably we on this side of the table will be in agreement; but there are some matters on which I think it will be more difficult to agree.

Let me deal first of all with the question of the rights and privileges of existing members of the all-India Services. I understand U Ba Pe to say that he is willing that they should be secured as they are now; indeed they must be if they are to continue to serve the new Burma Government, because there is a most complete contract with them in an Act of Parliament, for which I was incidentally responsible under Your Lordship's Secretaryship of State for getting through the House of Commons, in which their rights are guaranteed by the Secretary of State. Therefore, if they are transferred to any new Burma Government those rights will have to be continued to be guaranteed or they cannot be transferred.

Then the next question he dealt with was the question of retirement on proportionate pension. I understood U Ba Pe to say he would make a limit there of five years. I personally should prefer to see no limit laid down, at present, at any rate, and no limit laid down by this Conference.

Then he dealt with the question of a Public Service Commission. I am glad to learn—I do not know that that is quite the correct phrase—I am glad to know that he is in accord with the principle of the formation of a Public Service Commission, which I think is very essential in the case of Burma and indeed in the case of all countries. There are Public Service Commissions, as he is aware, functioning in a great many countries of the Empire.

Then a very important question arises. On this point I think U Ba Pe and I are in disagreement. That is the question of the future recruitment. If any Service on the model of the Indian Civil Service or the Indian Police Service is to be maintained, and if there is to be European recruitment for it, in my opinion the recruitment will have to be by the Secretary of State, for I am convinced that if there is not that recruitment you will not get the right type of

European to join the Service. There is a reference to this matter in the Report of one of the Committees of the Indian Round Table Conference. The Report says:—

“ A minority of the sub-Committee think that the recruiting authority should be the Secretary of State, since they hold that without an ultimate right of appeal to him, and through him to the British Parliament, it will not be possible to secure recruits of the required type for the British element in the Services.”

I associate myself fully with those remarks. In regard to other Services, such as the Irrigation Branch of the Indian Service of Engineers, I would for the moment preserve an open mind; but I am quite definitely of the opinion that in the case of the Indian Civil Service, or what will correspond to it in Burma, and the Indian Police Service, or what will correspond to it in Burma, the recruitment should be continued by the Secretary of State.

I do not think U Ba Pe dealt with the question of the Medical Service. I would suggest there that there would be an advantage in a combined Military and Civil Medical Service being constituted.

I think those are the only remarks at this moment which I desire to make on this very important question.

Mr. Harper: My Lord, I find myself very closely in agreement with the last speaker in, I think, practically everything he said. The subject has divided itself, I think quite rightly, into, first of all, the question of existing members of the Services, and then into the question of future recruitment. I was very glad indeed to hear U Ba Pe say straight away that he agrees that there could be no question about respecting the contract and rights of members of the existing Services.

It is very important that the new Burma Government should make a good start, and their attitude towards existing contracts would be a point on which they would be immediately judged, and therefore I was very glad to hear U Ba Pe's assurance on that point. As far as the question of the right to retire on proportionate pension is concerned, I am inclined to agree also with Lord Winterton that no fixed period should be put to that. I think that was the view also of the Statutory Commission. There is no particular point, as far as one can see, in fixing a particular period. If that period be fixed now, you might perhaps at the last moment find a rush of officers all retiring at once, and that would be extremely inconvenient. On the other hand, we all hope very much that there will be no question of wanting to retire at all, and if that is the position, then I think there can be no objection to having no fixed time for making them decide when to take their proportionate pensions, or whether to take them.

As far as future recruitment is concerned, this is an extremely important question, and the keynote of the whole thing, I think, was what U Ba Pe himself said as to the importance of running no risk of reduced efficiency. I think those were his very words, and I agree with him entirely. I do not know whether any of my friends on the opposite side of the table have given their mind to considering what the position of a Minister may have to be in the new Government. Perhaps as Ministers are, as U Chit Hlaing says, to be above politics, this question will have taken on rather a different aspect! But there is going to be a tremendous burden on the Ministers in the new Government and a tremendous amount of work which will be new to

them, and which will take all their time and thought, and I feel that for that reason, as much as for any other, it would be most unwise to reduce in any way the efficiency of the permanent officials on whom they will have to rely so much, especially in their earlier years. I do not know that there is any dispute about that—that the efficiency of all the Services must not be reduced—and so that that may be so the terms and security which are offered to new recruits for the Services must be such as will attract the very best men. The present Indian Civil Service, for instance, needs no particular praise from any of us. We all know that as a body of men, for loyalty and efficiency and hard work there can hardly be any body to beat them in the world, and to maintain that standard it is important that the terms should be attractive and that they should be secure. Now, so far as the European element of that is concerned, it will be required, I think it is generally agreed, for a very long time, or anyhow for quite a long time, and I personally cannot agree with U Ba Pe that we should leave this matter to the new Government. It is a very important matter, and I do not think that we could leave it over without any expression of opinion now, and my feeling is one which has been voiced by the Statutory Commission themselves, that taking, for instance, the Indian Civil Service and the Police—the security Services—they must continue to be recruited by the Secretary of State.

So far as the Irrigation Branch of the Indian Service of Engineers is concerned, this is at present recruited by the Secretary of State. I have tried to find out the reason for picking out that particular Branch and reserving recruitment for it to the Secretary of State, but I am afraid I have not been able to do so; and it is difficult, not knowing whether the special conditions still exist, to suggest a change or not. Generally speaking, however, provided that the efficiency of the Service can be maintained I do not see any particular objection to the transfer of recruitment there also.

It has been suggested that all these Services, other than the Security Services should be recruited through a Public Services Commission. That is a suggestion with which I am in full agreement. Such a Commission should, I think, be small. In Madras, which I understand is the only Province in India which has so far appointed a Public Services Commission, I understand there are three members, and I understand that the Public Services Commission of the Government of India has five members, though I speak subject to correction there. At any rate, I suggest this body should be a small one and should consist of men appointed by the Governor, and that they should be men who have no further service under Government to which to look forward. That point, I think, has already been suggested. It is the case at present, I understand, with the India Public Services Commission, and I think it is a very important principle to maintain.

The question of the Medical Service is a very difficult one. There are two parts of the Medical Service to be considered, the branch of the service with the Army and the branch for civil work. It is, I think, probably correct to say that if we try to keep two branches of the same service it is likely to lead to extravagance and to inconvenience, and it would be unsatisfactory for the members of the Service themselves by restricting opportunities for experience in their own line of work. I would suggest, therefore, that if it is at all possible the two branches should be combined, and that the Medical Service should be

neither civil nor military but that its members shall be available for either branch of the Services as required.

There is the general question of the ratio between European and non-European officials throughout the Services. I think that is a point which U Ba Pe also wanted to leave for the consideration of the new Government, but there again I think one ought to express an opinion before we get to that stage. The recommendations of the Lee Commission are, I think, generally acceptable in this connection. The Statutory Commission commented on them, particularly in the case of Burma, and pointed out that the Lee Commission's recommendations were based on a general average over the whole of India, greater in some Provinces and less in others. These proportions must not be taken as automatically applicable to a separated Burma. There again we come back to the question of efficiency. The last sentence of this quotation from the Statutory Commission is "The pace of Burmanisation must be decided on its merits." No one would have the least objection to the pace being increased if efficiency is maintained, but efficiency must be the guiding factor, and, in the meantime, I do not think it is possible to lay down a definite percentage, except to say that the pace suggested by the Lee Commission should not be exceeded until efficiency is clearly established.

There is just one other question—about the Central Services. There, again, I think that Burma will need the experience of the present Central Services. Those members of the Central Services who are recruited for service only in Burma would, I suppose, be automatically taken over by the new Government. Those members who are liable to transfer to other parts of India would presumably be given the option of staying in Burma, and in all cases, of course, their terms and security and so on would be guaranteed by the new Government as they are at present.

Major Graham Pole: May I ask one question? Mr. Harper said that the higher Civil Service must continue to be recruited by the Secretary of State.

Mr. Harper: Yes, that is my view.

Major Graham Pole: For how long should this be continued, or what do you propose to put in the Act about that?

Mr. Harper: That is where this word "efficiency" comes in again. The Lee Commission talked about Indianisation, for instance, on a fifty-fifty basis by 1939. That possibly would be the time when the question could be reconsidered. I do not know that it is possible to lay down a definite time.

Major Graham Pole: By 1939 it might be handed over to the Burma Government?

Mr. Harper: I would not like to express an opinion. It is impossible to lay down a definite date.

U Ba Pe: There is one more fact that I should like to mention. I do not know whether the members of the British Delegation are aware that in Burma we have already changed all-India Services into Burma Services, in regard to the Education, Agriculture, Forestry and Veterinary Departments. Those are being replaced by what is called Burma Service, Class I. The recruiting there was done by the Government through a Selection Board, which will be replaced by the

Burma Public Services Commission. This has been proceeding for the last two or three years, and there has been no complaint of unfairness or inefficiency. Everything is going smoothly, and that offers a good guidance for applications to other Services also.

May I respectfully remind the Conference of another point. If we are going to lay down restrictions which will fetter the action of the new Government we are not giving that new Government the opportunity of acting responsibly in accordance with their conscience. In that way we shall be doing a great deal of injustice to those who will have to shoulder responsibility.

Tharrawaddy U Pu : My Lord, we believe that responsible government with certain safeguards should be introduced in Burma; and we believe also that you are going to transfer to us the subject of Law and Order. Now by transferring the subject of Law and Order you ask us to administer that Department. Law and Order means to keep on the Administration; and, to preserve Law and Order, we require men in the Services. There is no doubt that for some time we would, of our own accord, very probably recruit many men for our Services from England, without your asking us to do so. I do not think any reservation should be placed upon the Services. If you ask us to administer Law and Order, and if you want us to preserve Law and Order in Burma, you must allow us to have the Services in our hands. How can you expect us to carry on administration without having the Services under our control, and without enabling us to appoint the Service men of our own accord, that is, as we people think right? What is the good of transferring to us Law and Order if you do not allow us to appoint officials for Law and Order, if you will not allow us to recruit our own men and to arrange the emoluments and other necessary things?

We have given very much by stating that the new Government must be responsible for respecting the conditions of service of old officers who have been recruited by the Secretary of State. We shall respect all conditions which have been laid down, which have been fixed by the Secretary of State before the new Constitution is introduced; but for new Services we must be given an authority to recruit persons from wherever we may like. I am sure that Burma will recruit a larger percentage from England than you used to recruit for the Indian Civil Service and the Indian Police Service. But please do not refuse to give us the power of recruiting, the power of arranging their emoluments, pensions and so forth of our own accord. Very probably we would, with due respect of our finance, pay them the same as you have arranged up to now to pay the Services; there can be no doubt about it, but due regard must be given to our finance.

Then again I am glad, My Lord, to note that Lord Winterton should see eye to eye with the views of the Burmans, as expressed by my friend, U Ba Pe, in respect of the appointment of a Public Services Commission; I am very glad of that. So if the Public Services Commission is appointed, according to my friend, he says independent men must find a place on it, and the appointment would lie in the hands of the Governor acting on the advice of the Cabinet.

U Ba Pe : The appointment should be with the Governor.

Tharrawaddy U Pu : I am sorry, My Lord. I do not agree with my friend in that case.

Lord Winterton: I was agreeing with U Ba Pe. We are in agreement as to the appointment.

Tharrawaddy U Pu: I hope you will reconsider the whole thing. The appointment of the members of the Public Services Commission should be left entirely in the hands of the Governor, but acting in agreement with or on the advice of the Cabinet, not by himself alone; I do not agree to that. Now my friend, U Ba Pe, says that the members of the Public Services Commission should hold office during the will and pleasure of the Governor. Now, that is not right. It would be like simply transferring the responsibility from the Cabinet to the Governor alone. I, for one, will not agree to such an arrangement. I think in this respect also, the Governor must act on the advice given by the Cabinet. I think other members will agree. One gentleman, I know, is in agreement with me in the person of U Maung Gyee. He knows what a Minister is. He is an ex-Minister.

U Maung Gyee: May I ask one question? Tharrawaddy U Pu says that U Ba Pe has said that the appointing authority should be the Governor, but I would like to ask U Ba Pe whether the Governor would be precluded from seeking the advice of the Cabinet.

U Ba Pe: The Governor must in all cases seek the advice of the Cabinet.

Lord Winterton: Then the thing is of no value at all. It is making the Governor into a mere agent of the Cabinet.

Tharrawaddy U Pu: We must have the right of recruiting. The responsibility must be in the Ministers, not in the Governor or any other body. The people of Burma would be responsible for keeping up the conditions of Service by paying the members of the Services on the terms of the contract agreed to between the Secretary of State for Burma and the men in the Services. They have also entered into agreement on certain conditions as to paying them while in service and paying them when they retire. We must keep all these terms of the contract, not only for them, but for the future Services too. We must pay them for some time to come. My humble opinion is that we must pay them the same amount of emoluments while in service and when they retire for some time to come. We cannot change that. Well, allow us to be able to influence the Services. They must work under the Cabinet, not under the Governor. How can you expect them, if you keep recruitment and dismissals and punishment and so forth in the hands of the Governor, to pay respect to the Cabinet who are responsible to the people of Burma? How could you expect that?

Chairman: Do you allow no discretion to the Governor at all? I want to be quite clear as to whether you are of exactly the same view as U Ba Pe or not. You say they should be appointed by the Governor but on the advice of his Ministers. Do you mean by that, that the Governor has only the formal act of appointing, or would he be able to say in certain cases, "No, I do not want to accept the advice of my Ministers, but I want to act on my own responsibility"? Which of those things do you mean?

Tharrawaddy U Pu: Well, my humble submission is this. The Governor cannot appoint any person of his own accord.

Chairman : That is not what I was asking. What I was asking was when the Governor appoints is he to act purely, so to speak, as an agent of the Ministers, or is he to have a discretion, after having consulted the Ministers, to appoint or not to appoint as he thinks best?

Tharrawaddy U Pu : My Lord, the importance of the transfer of responsibility on this point is so great that we cannot allow the Governor to have his own way to appoint the members of the Commission who would be authorised to recruit members of the Services of their own accord.

Chairman : Yes, but the Governor is to act in appointing the Commission on his own initiative?

Tharrawaddy U Pu : No—on the advice of the Cabinet.

Chairman : Yes, I know; but what I ask you is this. You may ask for advice and get advice, but you need not always take it.

Tharrawaddy U Pu : You must be bound if you are going to transfer the responsibility to us.

Chairman : I mean, when you are a Minister at the head of an office you get a great deal of advice. Sometimes it is not always the same advice.

Tharrawaddy U Pu : I say the Governor should be bound to accept the advice.

Chairman : The Governor has no discretion at all, according to you?

Tharrawaddy U Pu : No, not in this respect.

Chairman : And, therefore, they are in fact appointed by the Ministers?

Tharrawaddy U Pu : Certainly.

Chairman : Is that what you meant U Ba Pe? You meant to leave discretion to the Governor, did you not?

U Ba Pe : Let me explain. One position is that you make the Governor simply record the decision which has been made by the Cabinet. That is my friend's position. I do not want that position. It will be very difficult for the Governor to go against the united wish of the Cabinet, but I would rather leave him the discretion to have the final say. In the majority of occasions I am sure no Governor will act contrary to the united wish of the Cabinet.

Lord Winterton : Then what becomes of the argument which U Ba Pe used? He said it was very desirable there should be no political pressure here, and yet he now tells us that if all the Ministers are in favour of a certain course—I assume in response to political pressure from their supporters, because all Ministers are subjected to political pressure—the Governor will have to accept it.

U Ba Pe : I did not say he should.

Lord Winterton : You said it would be very difficult for him not to; those were the words you used.

U Ba Pe : Quite so.

Lord Winterton: Let us follow this up logically. You say that you do not want to see any political pressure brought to bear, but you also say that if the Ministers are united in favour of a certain course, on account of political pressure, the Governor could not resist it. Surely that brings in political pressure?

U Ba Pe: No, you are forgetting the personal equation. The Governor can meet the Cabinet and talk the matter over with them, and they can settle this very easily. In such matters there is a spirit of give and take between the two.

Lord Winterton: I am sorry to interrupt Tharrawaddy U Pu, and I apologise to him, but I wanted to clear this up with U Ba Pe. You are willing to leave the discretion to the Governor, at any rate in theory?

U Ba Pe: Yes.

Chairman: That is so, and Tharrawaddy U Pu is not.

Tharrawaddy U Pu: In this instance I cannot agree with my great friend U Ba Pe.

Chairman: He is a wise man.

Tharrawaddy U Pu: I am equally as wise as U Ba Pe!

Now, according to U Ba Pe the members of the Public Services Commission should be appointed by the Governor. The Cabinet will have a right to nominate members, but their advice may or may not be accepted by the Governor. On the question of appointing members to the Public Services Commission, the suggestion is, in fact, that the Governor should have the right to veto the advice given by the Cabinet. I should be the last man to agree to such a proposal. This is very important. There has been a great deal of talk here in this Conference about political pressure being brought to bear upon the members of the different Services, and especially of this Public Services Commission.

You are afraid, My Lord, lest the Cabinet might bring pressure on the members of the Public Services Commission. You give the power to the Governor to appoint the members of the Public Services Commission. U Ba Pe went to the extreme, he said that those members should hold office at the will and pleasure of the Governor. Do you not think that there is equally a danger of the Governor exercising his influence or bringing pressure upon the members of the Public Services Commission? That is equally a danger. Let us choose the lesser evil of the two. There is a danger of the Governor bringing pressure on the members of the Public Services Commission, who may be dismissed at the will and pleasure of the Governor, according to U Ba Pe. What I want to propose is that the Cabinet should have the power to recruit their own men and to dismiss them if they are at fault. In Burma, if any one of the officers of the Services, high or low, is accused, a departmental enquiry is held, and the officer is defended by lawyers, and has the opportunity of cross-examining witnesses. Only after a full enquiry do the authorities decide as to his fault and what punishment shall be meted out to him. They have very clear provisions laid down, containing a number of safeguards. The officers have every right of defending themselves and cross-examining witnesses, and only at long last are they punished, if it is so decided,

by the highest authority. If you allow the Governor to punish the officers as he likes there will be no responsibility such as we are seeking. I oppose the suggestion that the Governor should be empowered to appoint the members of the Public Services Commission on the right to dismiss the members of the Commission at his will and pleasure.

Major Graham Pole: If there was one man to be appointed to this Public Services Commission, would Tharrawaddy U Pu suggest that one name only should be given to the Governor, or should he be given two or three names from which to choose? If you only give him one name, it is not the Governor who appoints, he is simply the mouth-piece. If two or three names are given he would have some discretion.

Tharrawaddy U Pu: I do not like to have a half-way house. I want the Cabinet to be given the complete control. If the Cabinet says that a particular man is the proper man for the purpose that man should be appointed.

U Ba Pe: As far as the members of the Commission are concerned?

Tharrawaddy U Pu: The members of the Commission must be given a free hand to appoint as they think fit. I will not agree to seeing the members of the Commission sitting in Court and meting out punishment. The punishment must be decided according to the departmental rules. That is not the business of the Commission. I do not think the Commission should go into the question of punishment and the holding of enquiries. The Commission should not have that responsibility on their shoulders. Their work, in my submission, should be confined to the question of recruitment.

Lord Mersey: My Lord, I do not think it has ever been suggested that the Public Services Commission should be a penal or judicial body. It is to have selective power but it is not to punish.

Tharrawaddy U Pu: That is how I take it, My Lord: U Ba Pe mentioned about punishing too, I believe.

U Ba Pe: No.

Tharrawaddy U Pu: Then I am mistaken. I thought U Ba Pe mentioned punishment by the Public Services Commission.

U Ba Pe: No.

Tharrawaddy U Pu: Very well; then I misunderstood him.

U Ba Pe: Advice only.

Tharrawaddy U Pu: As to punishment? If I am wrong I apologise.

Now about the ratio question: as to how many Europeans and how many Burmans. This is a matter for the Cabinet. If you are going to transfer to us Law and Order, then, if I may put it in common language, why should you be so stingy in transferring power? We have come here from 8,000 miles away to ask you to transfer responsibility to us. Why should you be so miserly, if I may be permitted to say so?

Now with regard to Forestry and the Irrigation Branch of the Civil Engineering, I believe you all agree with me that these two things must be left in the hands of the Cabinet. There is no quarrel over those two

subjects. I take it like this, because in the case of the Indian Conference they say these two subjects should be left entirely in their hands. There was no quarrel with it. The Cabinet was given the power to recruit and to administer these subjects.

Mr. Wardlaw-Milne : I do not want to intervene, but I just want to say I do not agree, for totally different reasons which I hope to have a chance of expressing quite shortly, but not for the reasons which Tharrawaddy U Pu has dealt with at all.

Tharrawaddy U Pu : Do you think we have no Forest men and no Irrigation men?

Mr. Wardlaw-Milne : I do not think you must anticipate it; but you said you thought we were all agreed. I say I do not entirely agree.

Tharrawaddy U Pu : Indian Forests have been transferred and Irrigation too, I think. At any rate we want Irrigation too.

Chairman : You want to have everything transferred?

Tharrawaddy U Pu : As far as those subjects are concerned. My Lord, I am not asking too much. You are transferring to us Law and Order. If you are transferring the Services, how can we administer this Department without having control over the Services?

Chairman : Is not the position quite a simple one: On all these subjects you want everything transferred to the Government, that is to say, to the Burmese Government.

Tharrawaddy U Pu : All subjects may be too much. For instance, on the Army question we gave in to a certain extent. I do not think Your Lordship must expect too much from us. We have come here to have the real substance of responsible Government. In fact we want all, but then we would like to be reasonable with you. I do not know whether we can go further.

Now I want to refer Your Lordship to one of the decisions of the Indian Services Committee. It is a very important one:

“ Whatever decision may be reached as to ratio, the majority of the sub-Committee hold that the recruiting and controlling authority in the future should be the Government of India. ”

That is at the bottom of page 250. Now we are going to be given responsible Government on the same lines as India proper. They say “ the recruiting and controlling authority in the future should be the Government of India. ” Why not allow the Government of Burma to have the authority in recruiting and controlling these Services? Otherwise how can we control these subjects which are going to be transferred to us? They say :—

“ They would leave to that authority the decision of all questions such as conditions of recruitment, service, emoluments and control. Those who take this view attach importance to complete control over the Services being vested in the Central and Provincial Governments. ”

Therefore, this Services Committee also is in entire agreement with those who want the authority and controlling power to be transferred to the Government of India as we want to have it transferred to the Government of Burma and not to the Governor.

I come now to the Medical Services. Much has been said about recruiting army medical men. You can recruit army medical men for

the purpose of war; there is no objection to that. But as regards recruiting only Europeans, why should you make a difference between European and Indian in this respect? We are not going to do away with the present staff which we have as officers. Let them be where they are, and let them do the services which they have been doing. Let it be left entirely in their hands to look after the European officials and their families and so forth. But what about future recruitment? You do not want Indian Medical Service Officers at all, so why not trust the Cabinet to recruit the war service men? In time of war they may be useful not only for Burma; they will be useful for Britain also. You need have no doubt at all: in time of trouble in the Mother Country we people in Burma will come and join in your army. There is no doubt about it; we are willing to do it. As soon as we have built up our own army you will see how nice and how brave the Burmans are, surely. Do not have any mistrust at all about the Burmans. We would be one of the first to come to your aid in case of war. You can take it from me, surely. So let us look for the day when we Burmans shall get a constitution acceptable to the vast majority of the people of Burma. That is what I beg of you, My Lord.

Mr. Wardlaw-Milne : There are one or two points which I should like to make in connection with these matters that have been mentioned. Firstly, there has been, fortunately, and perhaps somewhat unusually, a certain amount of agreement on this subject. Perhaps it is, My Lord, that the Conference is taking to heart your references to the desirability of evincing a spirit of compromise.

On the question of the rights and privileges of the existing Services there is, I think, complete agreement. There is no question, I think, that these must be preserved. There was a point raised, which has been mentioned by almost all the speakers—the question of retirement on proportionate pension. U Ba Pe suggested that that should be limited to five years.

Tharrawaddy U Pu : I agreed, too.

Mr. Wardlaw-Milne : I do not quite know, with great respect, what you meant by agreed. I do not agree, for one, and I will tell you why. It is not that I think five years is a bad period, or that ten years or any other period would necessarily be better, but I think the point was put in a very valuable way by Mr. Harper, and that is, if you put a period, whatever it be, you have always the danger—and, after all, we are dealing with human beings, who are bound to look at these things very much in the same way—of all members of the Service feeling that the period during which this right is to exist is now about to expire—I am dealing with the time at the end of the five years—and they may begin to consider whether it would not be better that they should go while the going is good, as they say in this country. There might be the feeling, “ Oh, well, we are not very satisfied; probably we would stay on; we think there are some disadvantages, but as this is our last chance we are going now. ” Well, that might be very unfortunate for Burma.

Tharrawaddy U Pu : Let them decide within five years.

Mr. Wardlaw-Milne : Allow me to develop it, if you would. It would be extremely inconvenient for the new Government of Burma.

You might have no word of this happening until close to the end of the period. For that reason I am against putting a period. I think there is the same danger whatever period you put, and, after all, at this point I am only dealing with the rights of those who are in the Service when the new Government takes office. The consequence is that the period covered by this, if you make it unlimited, is comparatively small, because we are not dealing with the lifetime of an individual, but with the future Government of a country for ever or at any rate for a very long period, we hope. The advantages, therefore, of putting a time limit are much outweighed by the disadvantages, and I strongly urge, in the interests of Burma itself, that no period should be fixed. I think it much more likely that the men you want to retain would not consider retiring if you had not a limit which constantly brought it before their eyes.

Mr. Ohn Ghne: What is the object of giving this privilege to existing members of the Services? Is it not to call on them to decide whether they will work under the new conditions created by the new Reforms or not? If so, how much time do they require?

Mr. Wardlaw-Milne: No, I do not think it is that, because in that case there would be no object in having a period of five years; you might ask them to decide at once. The point is that they cannot tell what the conditions are until they exist. You may find, especially in Burma, men who, during the next five years after this new Government is in office, have no experience of town conditions or city conditions. Just before the five year period is up they may be transferred from some forest district, where they had been more or less free from interference, to some place near the centre of government where there was a great deal of interference. I am looking at it from their point of view, and I mean that they might consider there was a great deal of interference. During the first period, therefore, they might have no experience of the conditions which they might suddenly meet with just after the five years, and therefore they would be at a disadvantage. I cannot see the advantage of five years from Burma's point of view.

U Ba Pe: If you allow the members of the Services to have the right to retire at any moment they like without a time limit, would that not affect the discipline of the Service? The officer will say "I can go at any moment I like," and if he is dissatisfied he may say "All right, I am going on proportionate pension," and that will affect the discipline of the whole Service.

Mr. Wardlaw-Milne: It would, if it was going on for ever, but it is not; this refers only to the people who are already in the Services, and you must admit that you are radically altering their conditions.

U Ba Pe: The point is, will it not affect the discipline of the Service?

Mr. Wardlaw-Milne: No. I think it is much more likely to mean that if they have this right all the time they will not exercise it; but the moment you say to them "This right is going to expire; you must make up your minds now," men may say "We are not going to chance it; we are going now," and that may be extremely awkward for Burma.

I am not going to make a great deal of it, because it is not a very strong point; but considering that if you do make it unlimited it must be confined to the lifetime of the individuals concerned, it cannot be a very long period at the best.

The second point is in connection with the Public Services Commission. Mr. Harper has suggested that it should consist of three members, and I think that is a very good number. I think the smaller it is, and therefore, perhaps, the more efficient, the better.

A point was raised by Tharrawaddy U Pu and an argument began on the question of what the Commission's powers should be regarding references to it in a case of punishment, or in a case where other disciplinary action was taken. I am informed that in India the Public Services Commission does sit in judgment in such cases. I do not know it of my own knowledge, but I am informed that what happens is this: If an appeal to the Government of India is made on a question of punishment or action of that sort, the papers are, as a rule, sent to the Public Services Commission, and they advise as to their view of the case that is put up to them. In the case of the Secretary of State's officers—that is, the officers appointed by the Secretary of State—these papers then go home, and I understand that the Secretary of State, if the Government of India and the Public Services Commission agree, generally accepts the combined view. He is at liberty to accept either view if they differ, or to put forward some view of his own.

That is the position to that extent. It is only to put right what was not clearly understood, that they do apparently consider these matters.

Tharrawaddy U Pu: But the Government of India is at liberty to accept or reject the recommendations of the Public Services Commission.

Mr. Wardlaw-Milne: The Secretary of State is at liberty to accept or reject or to put forward something else of his own.

The question of medical officers is a very important one. I have always held the view in connection with India, and it holds in connection with Burma, that so long as you have European officers and families, it is only natural that you must have a certain number of European medical men. In Burma, where we are dealing with a smaller area, it is probably advisable not to divide the Medical Service into civil and military, but to have one service. In that case, however, from my experience of India, it will be necessary to secure a certain training in military organisation for some of these medical officers so that they may be available in time of war.

On the question of the Irrigation Service, I said that I did not agree, and for a reason that has not been mentioned at all. I feel a little diffident about mentioning this matter because I do not know to what extent this service is of paramount importance in Burma, but it seems to me that it is essentially a very expert service, and I do not think it is going to be easy for any country of the size of Burma to get a very efficient Irrigation Service unless worked in liaison in some way with India, where you have such a large tract for education and training in this expert service. I am not concerned particularly whether recruited by the Secretary of State or the Government of Burma. My preference for leaving it as a

service to be recruited by the Secretary of State mainly is that he would have at his command a knowledge of the men who had had special training in India, the nearest place where the conditions would be at all similar. It is for that reason, namely, to get expert training in a very expert service, that I rather suggest that it would be wise if recruitment were left to the Secretary of State. But so far as the Indian Civil Service and the Police are concerned, I am strongly of opinion that recruitment by the Secretary of State must continue. The fact that there is a definite possibility of appeal in the last resort to Parliament ensures your getting a class of man that, I will say without hesitation, you would not get without that proviso.

There is no difficulty to my mind in the question of what is called Burmanisation, and, as a matter of fact, it is known, I gather, to many gentlemen on my left much better than it has hitherto been known to me, that the rate at which the Burmans are entering the Civil Service is increasing rapidly. I am told that there are now 34 Burmans in the Civil Service out of 158, whereas a few years ago there were almost none at all. That, I take it, is simply a question of getting the best men as soon as they are available. It would be very injudicious to lay down any period, and I do not think the Lee Commission Report really affects this question particularly in Burma. You might find it quite possible that in Burma—I say this with diffidence—the conditions were such that you could go ahead faster than in India. On the other hand, let me put it the other way; the conditions might be such that this could go ahead faster in India than in Burma, and if the gentlemen at this Conference are, as I am sure they are, thoroughly good representatives of Burman life and character, we shall be able to go much faster there than elsewhere. But I do not think, at any rate, you should lay down any definite rate of progress in a case in which already the progress is fairly satisfactory.

Major Graham Pole: You do not limit the rate of progress either?

Mr. Wardlaw-Milne: Well, I do not think it is necessary to limit it so long as you leave the Service, as I have suggested where the recruitment is in the hands of the Secretary of State; he is perfectly prepared to recruit the best material he can get. I do not think you want to limit it, but at the same time I do not think you want to lay down any definite rules. It is going on quite well at the present time, and, although there may be other opinions on that point, my own view is that from what I have heard it is possible to work it in the way it is being done at present.

Mr. Cowasjee: My Lord, I desire to address this Conference from an aspect that has not yet been dealt with. I am in agreement that we should have a Public Services Commission for the purpose of recruiting officers through this Public Services Commission. In my opinion the members of this Public Services Commission should be appointed by the Governor and not by the Governor in consultation with the Cabinet. I desire to make this reservation because I consider that the members of the Public Services Commission should be representatives of the various communities which form the population of Burma.

Tharrawaddy U Pu: Minorities.

Mr. Cowasjee: Minorities and majorities, everybody. And it is desirable from that point of view that the members of the Public Services Commission should be representative members not of one community but of all the communities of the Province. I do not necessarily mean each and every community should individually be represented but communities of importance. That being so, it will not be desirable to limit the number of members on this Commission to only three. As to what the correct number ought to be is a matter which could be dealt with hereafter; but if this Public Services Commission is to be appointed under the Constitution or under any special Act for the appointment of a Public Services Commission, there must be express provision made in the Statute that the members of the Public Services Commission should be representative of the important communities of the Province.

Lord Mersey: How many?

Mr. Cowasjee: I would suggest about 5 to 7.

Chairman: Mr. Cowasjee, do you not think that, provided this Commission is appointed by the Governor, who must obviously be impartial between the different communities, it will be enough if he is left quite unfettered to appoint this Commission; and that then, having appointed these gentlemen, they will really be trusted to act quite impartially towards the different communities? That will be their business; and if they do not act impartially, after all, they are failing to carry out the duties for which they were appointed. Do you think it is really feasible to have a much enlarged Commission? You then get into all the difficulties of proportional representation; because, if you are going to have all the communities represented, the larger majorities, as it were, will want to have their proportional representation on this Commission, and you will get a body almost as large as this Conference.

Mr. Cowasjee: If special instructions are given to the Governor that he must have this particular consideration in mind that the duty of the Public Services Commission would be to select members for the Public Services not from one particular class but from all classes, then of course the Governor would apply his mind and select such suitable persons to act on the Commission who in his opinion would be likely to do fair justice to the minority communities of the Province.

Major Graham Pole: If there were three vacancies, and there were two brilliant Indians and say, one or two dud Burmans, you have the Burmans put in over the brilliant Indians?

Mr. Cowasjee: I do not say that. I said consistently with the rights of all the minority communities.

Chairman: Yes; but again, I want only to get at what your idea is. Presumably these gentlemen are to be selected as the result of examinations, are they not?

Mr. Cowasjee: Not necessarily.

Chairman: The members of the Service who are recruited will be recruited on some basis?

Mr. Cowasjee: Yes.

Chairman: Presumably they will be recruited on the basis of some examination test?

Mr. Cowasjee: Yes.

Chairman: Very well, then, you would not take, I understand, the top five, if you wanted five, but you would look down the list, would you, to see—

Mr. Cowasjee: My Lord, that is my second point. My first point is as regards the members of this Commission. As to the second point, I am just coming to it in a minute. I see Your Lordship's point.

Chairman: Yes, you see my point; but as regards, anyhow, the members of the Commission, it has been suggested that they would be three. At what number would you propose to fix them, or about what number?

Mr. Cowasjee: I do not mind much what the number is; it may be three or five, provided that special instructions are given to the Governor that in making a selection of members for this Commission he would be guided by the considerations that the members selected would be persons who would do fair justice to all the communities in the Province.

Chairman: Well, surely any Governor worth his salt would select people on the assumption that they did equal justice. I would not appoint a man Governor if he could not do that without instructions.

Mr. Cowasjee: I would suggest that there should be special instructions given to the Governor so that the rights of the minority communities, if not adequately protected could be enforced.

Then as regards the point which Your Lordship has just raised that point has already been settled in the Report of the Services sub-Committee of the Indian Round Table Conference, and I cannot do better than refer to the words in paragraph 4 of that Report which you will find on page 406 of the Proceedings. It is there stated:

“Recruitment to the Public Services shall be made through such Commissions in such a way as to secure a fair and adequate representation to the various communities consistently with considerations of efficiency and the possession of the necessary qualifications.”

I rely upon this, and, of course efficiency must, after all, be the primary test so that if the first five persons are the first five in the examination list, and numbers 3, 4 and 5 do not belong to the majority community they should not be put back and numbers 7, 8 and 9 taken simply on the ground that numbers 3, 4 and 5 do not belong to the majority community.

Chairman: Yes; but if you take an examination, and there are five people at the top—we will say a hundred come in—do you mean to suggest that anybody would put aside numbers 3, 4 and 5 and take numbers 6, 7 and 8, and that that would be a fair way of conducting an examination?

Mr. Cowasjee: No. Suppose there were five appointments and a hundred candidates, among the first five, we will say, two are Karens and one is an Anglo-Indian. My point is that the two Karens and

the one Anglo-Indian should not be excluded and preference be given to the remaining candidates, 7, 8 and 9.

Chairman: In a great many examinations you do not have the names at all; you simply have the papers, and then you say, "the papers of these five people are the best." Well, you do not suggest that after having said "these are the best" you should look to see if one of them was a Karen and put him in or out?

Mr. Cowasjee: No, of course not. Supposing the names of the five are ascertained after the examination, then you must not take away numbers 3, 4 and 5 because they do not belong to a particular community; in other words, in the words of this rule, you must not make any distinction between the various communities, and every community should have a fair and adequate representation on the Public Services Commission, subject to the considerations of efficiency and the possession of the necessary qualifications.

U Ba Pe: I should like to make one point, if I may. What Mr. Cowasjee suggests is that if there are five vacancies the first five best men should be taken on irrespective of their creed, colour or religion.

In that case I suppose the minorities are not thinking of getting a specific percentage in the Services also, because if they are out for that as well it will be very difficult to work.

Mr. Cowasjee: No, I say subject to considerations of efficiency and the necessary qualifications. I do not say the minorities should be given any preference; the minorities should be placed in the same position as a majority community. I do not think it will be necessary to develop my point further, because my friends are in agreement with my suggestion.

Lord Winterton: Who are?

Mr. Cowasjee: U Ba Pe and Tharrawaddy U Pu.

Tharrawaddy U Pu: I have not said a word. I am going to say a word later.

Mr. Cowasjee: This report goes further. It says "This part of the duties of the Public Services Commission shall be subject in the case of provincial commissions to periodical review by the Governor and in the case of the Central Commission by the Governor-General, both of whom shall be empowered to issue any necessary instructions to secure the desired result," and "There should be a statutory declaration that no person shall be under any disability for admission into any branch of the Public Services of the country merely by reason of community, caste, creed or race." Moreover, it says "Membership of any community, caste, creed or race shall not be a ground for promotion or supersession in any Public Service."

Major Graham Pole: That is to say, you are agreed with all the rest of us that it should be simply according to ability?

Mr. Cowasjee: Yes.

Major Graham Pole: Everybody is agreed on that.

Sir O. de Glanville: My Lord, I do hope we shall be able to agree on a Commission which has not to be split up on a communal basis. I think that ought to be entirely excluded. There is only one point which may be misunderstood, it has been suggested that the Public

Services in Burma will be filled very largely by examination, as is done here. I am very doubtful about that point. At the present moment vacancies are not filled in that way. If certain posts in the superior services are open, qualifications are imposed such as a University degree. I do not think it will be feasible in future to have another examination on top of the University degree; there must be, as there is now, a certain amount of selection. I mention that, since what is said at this Conference may have a considerable influence in future affairs in Burma. I do not think it would be acceptable in Burma that the Public Services Commission should hold examinations for every appointment they fill. It may have, and I think probably will have, to do a considerable amount of selection, to do the duties which are now performed by the Selection Boards.

Chairman: Are we on the same point, Sir Oscar? I was only assuming—I may be wrong—that that would be the system for getting people into one of the civil services. After that, presumably, there would not be examinations, but there would be promotion, which it would be hoped would be by merit. You would say there would be selection?

Sir O. de Glanville: I am not speaking of that. I thought Your Lordship was under the impression that the Public Services Commission would never be accused of partiality because it would select the requisite number from the successful candidates in an examination. That is not the position in Burma.

Dr. Thein Maung: For the Civil Service there is an examination.

Chairman: That is what I was assuming, but Sir Oscar said I was wrong.

Sir O. de Glanville: I was leaving the Civil Service out of consideration altogether.

Chairman: I was using “civil service” not in the special sense of the Indian Civil Service but for all the Services other than military.

Sir O. de Glanville: It is not by examination at present. When we have to select say State scholars to send to England, we do not select these State scholars by examination. We make the condition that every applicant shall have a University degree, and then the Selection Boards sit to select the most suitable persons. I should not like the view to go out from this Conference uncontradicted that examination is always to be the method of selection.

U Chit Hlaing: When I took part in the Conference this morning I pointed out to Your Lordship that, as embodied in our statement on Monday, there are certain subjects over which we were not given controlling powers, and one of those was the Services. Now we have come to the question of the Services. The sub-Committee of the Indian Round Table Conference which considered this subject stated as follows: —

“We recommend that the Government of India should be the authority for recruitment to the Services which are under the control of Ministers responsible to the Legislature. As regards the Services under the control of the Governor-General we do not feel called upon to make any recommendation.”

I submit that this is one of the reasons why we were not satisfied with your statement made last Friday, that is to say, the Services, on which the recommendation which I have just read out was made on

January 16th last. When Your Lordship made the statement you referred to the Prime Minister's statement of January, and you gave the illustration of the Services as one of the subjects which were not covered by the principle enunciated. I submit, for the reason given by my friends today, that recruitment of Central Services should be, as in India, left in the hands of the Minister responsible to the Legislature, and that the controlling power should be left in his hands also.

Chairman: You are talking about the Central Services, not about the all-India Services?

U Chit Hlaing: No, not about the all-India Services. As regards the all-India Services my friends have already spoken. With regard to the limitation within which a man might retire on a proportionate pension, I submit that five years is a reasonable period. If we were to give them an unlimited time, I know some of them would take advantage of the unlimited time and retire at any time. I know of a few instances even in the Indian Services. There are some gentlemen in the Indian Services serving in Burma who, I know, as they know themselves, can get their £1,000 pension when they retire at any time. Some of these few gentlemen have not worked satisfactorily in the Burma Service because they know they cannot be forced to retire if they do not work satisfactorily; they can retire at any time. These gentlemen are known to the Burma Government; they know them perfectly well. Some of them, after nearly thirty years service, are still Deputy Commissioners because they were not considered to be efficient officers. But because such a man happens to be in the Indian Civil Service he says: "I cannot be sent away; I will stick on till the last minute." There you are; that is an instance. I can give the name if you want it. There it is; that is India: "Because I am an Indian Civil Servant I will stick on; you do whatever you like. You can transfer me anywhere. I will stick on."

Mr. Harper: May I ask what this has to do with proportionate pension?

Chairman: It seems to be conclusive in this case, that if this gentleman has five years, he will then have served 35 years, and I do not think there is much in it anyway.

U Chit Hlaing: It shows that some of the Indian Civil Service gentlemen know that they get a retiring pension of £1,000, and here, after nearly 30 years' service, that gentleman is still drawing about Rs. 2,000. He could not become a Commissioner because he was not considered efficient. These gentlemen are allowed to go and say: "I will go on; I will not retire on a proportionate pension." There is an instance.

Tharrawaddy U Pu: My Lord, you just now mentioned the difference between all-India Services and the Central Services. Is there any difference when a Services Committee* has decided by paragraph 7, as to the Central Services, that is, all-India Services: "We recommend that the Government of India should be the authority for recruitment to the Services." It is page 426 in the big book.

Chairman: That has been read already. That refers, as I said, to the Central Services.

Tharrawaddy U Pu: "Generally under the control of Ministers responsible to the Legislature." It says "generally."

Chairman: Yes, but I say we have had that read already, and it refers to the Central Services. That paragraph does not deal with the all-India Services.

Tharrawaddy U Pu: All-India subjects are at present Central subjects.

Chairman: I think you are mistaken. There is a distinction between what are called the Superior Services in India, that is to say, the Civil Service, Police, and anything else, and what are called the Central Services which deal mainly with Railways, Posts and Telegraphs, and that sort of thing. I think you are under a mistake, *Tharrawaddy U Pu*.

Mr. Haji: I think it may be taken as agreed by all of us that there should be a Public Services Commission in Burma. Now with regard to the establishment of a Public Services Commission various points of view have been put forward, and I think three clear positions have come out. One is a suggestion under which the members of the Public Services Commission are to be appointed by the Governor, and, as U Ba Pe originally stated, to hold office under his pleasure.

The second position is that they are to be appointed by the Governor in consultation with the Cabinet, the Governor to use his discretion, and the third position is that of our friend *Tharrawaddy U Pu*—namely, that it is the Government that is to appoint. With great respect, I should like to say that if we are going to follow the conclusions arrived at after very elaborate discussions in the Indian Round Table Conference, their conclusion is as follows. On page 407 of the Proceedings it is stated that:—

"Members of the Public Services Commissions shall hold office during the pleasure of the Crown and be removable by the Governor, in the case of a Provincial Commission, and by the Governor-General in the case of the Central Commission."

That is exactly the case that was mentioned at this table in the first instance; but there is another point which I should like to be taken note of, and it is this, that these members of the Public Services Commissions

"shall, after ceasing to be members of a Commission, be ineligible for a period to be fixed by the Governor or Governor-General as the case may be for further office under the Crown in India."

We want to make this Public Services Commission as much above reproach as we possibly can make it, and it is most essential that we should go to the length suggested by the Indian Round Table proceedings. Moreover, I should like to see in the dominion of Burma, the Civil Service treated in a manner, not as it is treated in India, but as it is treated in this country and other countries where the Civil Service, though not having the determining voice in the matter of policy, is a most efficacious instrument of execution of the policy which has been determined upon by the Cabinet, and that, we know, can be

realised only by having the intellectual and the efficiency tests which the Civil Service Commissioners of all countries, in different names and forms, carry out for their respective lands. For example, I should like to see in Burma what we might call Service No. 1, which will incorporate the Indian Civil Service, the Police and some of the highest officers of today; that we should have Civil Service No. 2, which will incorporate the Provincial Service of today, and odds and ends; whatever you like to place in it; and then Civil Service No. 3 would be the Subordinate Service in the Province of Burma to-day. For all these three I should like to see a Public Services Commission functioning; and though it may be in some cases necessary to bear in mind the point made by Sir Oscar de Glanville—namely, that an examination may not always be a reliable test and a reliable method of procedure—I do feel myself that, if you like, you may combine an examination result with a selection test, but even in the lowest of services, be it merely, say, that of a messenger boy, I should like to see an examination and selection combined, because it is only then that we shall have in Burma, public servants of the same efficiency as carry on the day-to-day administration of the Government in this country and elsewhere.

I need not go, at this relatively late hour, into the general principles underlying the suggestion. It is sufficient for my purpose that I have, in a few words, given you what I think are the main lines on which our Public Services Commission in Burma should function in future.

Mr. Ohn Ghine: In regard to the question of future recruitment and the controlling authority for what are now known as the Indian Civil Service and the Indian Police Service, I would like to say that we in this corner agree with the majority views of the Services sub-Committee. I do not need to read them out again, because they have already been read out by Tharrawaddy U Pu. As regards the question of limiting the exercise of the right to proportionate pension, I am still not convinced that five years is not sufficient. If there is no limit to the period, then it means that certain members of the Services are getting really two kinds of rights in regard to pension. One will be the privilege right as proposed here, and the other the ordinary right. I really do not see why there should be these two privileges open to certain members only.

Mr. Wardlaw-Milne: But may I interrupt? They are surely not getting two privileges, but one of two. They cannot have it both ways.

Mr. Ohn Ghine: But they have an unlimited time within which to choose which they will accept. I see no necessity for that. There is also another point which we have to consider. If a particular member of a particular class in the Services feels at any time that he would like to exercise that particular right, it is possible that the whole class might do it.

In that case what guarantee will the future government have of being able to rely on the services of such men? Government should be able to feel that beyond the limit of five years it could rely on the men in these particular Services, that they would continue to serve. I feel that five years is quite sufficient.

Tharrawaddy U Pu: May I say one word only to impress on Your Lordship the real decision of the sub-Committee with regard to the recruiting authority?

Chairman: I have read it, you know.

Tharrawaddy U Pu: May I refer Your Lordship to it?

Chairman: You can refer to it shortly, but please bear in mind that I have read it.

Tharrawaddy U Pu: Your Lordship has just said that clause 7 does not apply to this matter because it deals with Central Services, but in clause 3 Your Lordship will find the decision of the majority of that Committee with regard to the Indian Civil Service and Indian Police Service. They say here:

“ Whatever decision may be reached as to ratio, the majority of the sub-Committee hold that the recruiting and controlling authority in the future should be the Government of India.” Therefore, My Lord, I am only asking the same thing, that this matter should be left in the hands of the Government of Burma, and not in the hands of the Governor as suggested by my good friend U Ba Pe.

U Ba Pe: I said all the recruiting must be done by the Government, but the selection of the recruits must be by the Public Services Commission.

Mr. Howison: My Lord, I feel that somewhat undue prominence has been given to this majority view of the sub-Committee, which has been mentioned at least three times by those on the other side of the table. I should like to read the views of the minority, which are given as follows:

“ A minority of the sub-Committee think that the recruiting authority should be the Secretary of State, since they hold that without an ultimate right of appeal to him, and through him to the British Parliament, it will not be possible to secure recruits of the required type for the British element in the Services. Those who take this view consider that adequate control over the members of the Services can be secured to the Indian and Provincial Governments under the Devolution Rules.”

Mr. Wardlaw-Milne, I think, has already drawn attention to this point, namely that from the British point of view, from the point of view of those young men in this country who may be contemplating taking service under the Burma Government, recruitment through the Secretary of State is a very important consideration.

I think everyone around this table is agreed that efficiency in the Services must be the primary consideration, and must not be allowed to deteriorate under any circumstances. I think, also, there is no dispute that a certain European element will be required in the Services. In fact, Tharrawaddy U Pu waxed quite enthusiastic on the matter, and I almost thought he was going to propose an even higher percentage of the European element than there is at present. He was, at any rate, insistent that the European element should be maintained. I just wish, however, to state my own view, that the minority opinion in this matter is the correct one. I do not subscribe to that majority view which has been so frequently quoted on the other side.

Lord Lothian: I should like to say a word or two, not as speaking for the Government, but merely from my own experience as one who has lived in the Dominions and has travelled a good deal in the United States and in Europe. One perfectly clear lesson, I think, is emerging from the experience of democracy all over the world during the last ten or fifteen years. It is just as important to keep the Civil Service away from political influence of all kinds as it is to keep the Judiciary. If you look at the history of Australia, and still more at America, where you will find corruption of the Civil Service by political intrigue—it is illustrated in a vivid way in Chicago and New York, where the Civil Service, and still more the Police, begins to be subjected to political considerations—you will find an example of what I mean. I hope that the Burman representatives will realise that in pressing for the efficiency of the machine, people are not pressing for the restriction of responsible government. They are out for an efficient instrument, not for an instrument which will break in their hands. Tharrawaddy U Pu may be going to sit one of these days in the driving seat of the Rolls Royce car of Burma. It would not be a good thing when he began to do so that he should also ask that the machinery of the car should be reconstructed. He should first learn the driving itself, and, later on, he may be able to design a better Rolls Royce than now. It is enormously important that during the transition period from a state of relative political disorganisation to one of political organisation, the machine of Government should be maintained intact.

Chairman: We have had a detailed and interesting discussion. I note certain agreements to-day which I am very happy to proclaim. Certainly, I think everybody is agreed about the method of treating the existing members of the Civil Service. There is a difference of opinion on one point, and I think on one point only, and that is about the right of proportionate pension on retirement. Some say five years, and others an unlimited period. The idea of an unlimited pension period has been criticised on the ground that it is really unnecessary and might interfere with discipline in some way. I am not sure that I understand how it would interfere with discipline. I might say one word on that point. I happen to have had a particular experience of that in the Indian case, because, when the Reforms were introduced, it was found that the period within which officers might apply for proportionate pensions was rather short. I happened to be Secretary of State when I was suddenly threatened with a general withdrawal of a great number of officials from the Indian Services. I had to bring in a Bill very rapidly and to get it through both Houses to extend that period. Having had that experience myself, I am naturally rather anxious to help other people to avoid that difficulty, because, if you do propose it for five years, it is quite true that when you get, we will say, to the third and the fourth year, men's minds begin to be rather disturbed, and they begin to wonder whether they are really wise in committing themselves there for the rest of their career in the new circumstances, when they might have an opportunity of retiring with a pension and perhaps seeking work elsewhere. I think there is a very real danger. I am not now discussing whether the period should be exactly five or ten or unlimited. I think "unlimited" is rather too generous a word,

because it is really strictly limited. I leave the matter at this point, that I would not be too narrow in fixing that limit, because I think you will have that difficulty which I am sure everybody would want to avoid. That really is the only point on which I think on that matter we are disagreed, or really there is a lack of agreement.

On the other point I should like to say one word. I very much agree with what my friend, Lord Lothian, has just said. I was really going to say something of the same kind. There seems to be a fear in the mind, I think of U Ba Pe, that if the right of recruitment or selection of the officials was limited in the case of the new Burma Government, that they would not have responsible government. I think that is roughly what he said, is it not?

U Ba Pe: Not exactly, but it will interfere with their discretion.

Chairman: Well, I think you said rather more, did you not: that it would be a diminution of responsibility, of responsible government?

U Ba Pe: Yes.

Chairman: Well, I was going to make this suggestion: that after all it is the Government and the Ministers who are responsible for policy, and that the officials are the people to carry it out. It is not their business to interfere with policy, and I did not quite see why that should be so when you have officials whose duty it is, when once they are selected and appointed, to carry out the policy laid down by the Ministers. I did not see how that could interfere with responsible government. I know it is sometimes said that the Civil Service control the Government, and of course it is said in the case of certain Ministers that they are too much in the hands of their Civil Servants; but that is the fault of the Minister and not the fault of the system.

But again, I think the tendency in all countries now is to remove more and more subjects—certainly subjects of this class—from the direct control of Ministers, Parliaments, and politicians. Politicians are a very fine body of men; I am not saying a word against them; but undoubtedly, though it may be entirely misguided, as I say, this movement does obtain very largely in Europe, in the East and elsewhere. In fact, all over the world there is the tendency to remove subjects from the direct control of politicians and put them under the control of independent Boards. Nowhere, I think, is it considered that it derogates, as it were, from any sort of self-government or democratic government. On the contrary, it is one of those precautions which democratic peoples and governments, knowing their own weaknesses, have set up in order to protect themselves from the results of their own follies and tendencies. I do not think, therefore, we need be in the least afraid of anything of that kind.

The third point I want to mention is this. There has been a great deal said about the methods of selection and where they should be chosen. Leave it, one Member has said, to the Government of Burma to settle all these things, recruitment and everything else. I will only just say that the Government of Burma is going to have a tremendous number of new jobs thrown upon it in its first three or four years of working, and I am not sure the Ministers would not be glad to have some of these things settled before they start, instead of having the enormous political pressure from all quarters which is put upon them to settle in a certain way.

The other point I wanted to mention is this. It has been freely admitted by many of those who have spoken—many gentlemen on my left—that they want to recruit a number of Europeans and people from this country. If I may say so, I think that is a very wise idea, because, after all, the very long experience of trained Civil Service people in this country is very considerable, and I think Burma would be very wise to make use of them. But now the question comes: How are you going to get the best men? On this, I think, we here can really speak with authority, because we know, I think you will agree—better than you do, how you are to get the best men from this country. It has certainly been our experience in India that to give them the greatest security and the greatest confidence, is, anyhow at first, to have them selected by, and be under the control of the selection by, the Secretary of State. That does give them that sense of security. It is worth having, I think. I do not think you could get it in any other way, and I feel confident that only in that way would you secure the services of the men you want—that is to say, the best men this country can supply for service in Burma—and I am sure you will agree with me that you do not want the second best; you want the best. Therefore, in deciding upon what men you want for the service in Burma I would like you to weigh very carefully not only what you want but the best way of getting it, and I do most strongly say that, in my view certainly, you would get it by giving them what they would call the protection of the Secretary of State, by giving them the greatest sense of security. Of course, as time goes on, all these things will modify and disappear. I am only talking about the start.

Well, gentlemen, I think these are the only two or three observations I wish to make, because it is only really on that question that any difference of opinion has occurred. I have not heard very much about one other point that was mentioned; and that was whether, in view of the importance, so long as you have a British Service there, of getting their own Medical Service to look after them, and in view of the fact that both that Civil Medical Service and also the the Military Medical Service may be rather small, it is your wish that it should be separated from that of India. I think it worth while considering—I just mention a point which has been already mentioned—whether there should be a combined Military and Civil Medical Service which would be rather larger than either service separately and therefore would enable you to get the services of the best men.

Tharrawaddy U Pu: May I just suggest one thing with Your Lordship's special permission—one word only before I forget—about your Secretary of State's recruitment. You believe that he will be the best man to recruit the Indian Civil Service men . . .

Chairman: I was not exactly saying recruiting. What I meant was for the Secretary of State to have the general supervision so that the men in the Service were certain that they would get, I will not say fair treatment, but would get the comfort, the feeling, that their own Secretary of State at home was looking after them.

Tharrawaddy U Pu: I was going to say, could we ask the Secretary of State to enlist the men on our behalf?

Chairman: There are a great many ways of doing it. I will not go into questions of detail.

(The Committee adjourned at 5-5 p.m.)

Proceedings of the Tenth Meeting of the Committee of the Whole Conference, held on Friday, the 18th December, 1931, at 11-15 a.m.

HEAD 11

THE MINISTERS.

The following points for discussion in connection with this Head were drafted by the Chairman:—

- (i) *The Council of Ministers, its appointment and composition.*
- (ii) *A Chief Minister and his position.*
- (iii) *Responsibility of the Ministers to the Legislature.*
- (iv) *Circumstances in which the Ministry should relinquish office.*
- (v) *Appointment to the Ministry of officials or other persons not members of the Legislature, and of nominated members of the Legislature.*
- (vi) *Position of the Governor vis-à-vis the Council.*

U Ba Pe: I do not think it will be necessary for us to say much on this question, because we assume we are framing a constitution that will give Burma responsible government in all fields except in the case of one or two where there may be reservation of powers to the Governor. I may recall Your Lordship's attention to the fact that the aim which is before the people of Burma is to attain what is usually known in Burma as Dominion Status. To that term in Burma we attach a specific meaning. The best definition was given by Mr. Bonar Law in the House of Commons in 1920, and I may quote his very words to show what we are really after:

“What is the essential of Dominion home rule? The essential is that they have control of their whole destinies, of their fighting forces, and of the amounts which they will contribute to the general security of the Empire. All these things are vital and there is not a man in the House who would not admit that the connection of the Dominions with the Empire depends upon themselves.”

That is further qualified by the Imperial Conference in 1926 which declared that the Dominions were autonomous communities within the British Empire equal in status in no way subordinate one to another in any aspect of their domestic or external affairs. “Every self-governing member of the Empire” they added, “was now ‘master of its own destiny’ and, in fact, if not always in form, subject to no compulsion whatever.”

That is practically the ideal of the Burmese people. They do not want to go out of the Empire, but, on the other hand, they do not want to remain in a subordinate position; they want a free and equal partnership as one of the self-governing Dominions.

Chairman: We have heard these things stated by you and others in the general Conference. I do not want to stop you, but there are a number of very difficult questions connected with the Ministry and their responsibility to the House and that sort of thing, and I should like to hear you on that.

U Ba Pe: With regard to that subject we approach it from the point of view of attaining self-government. During the discussions on various matters of the last few days, it was apparent that there will be, during the period of transition, subjects reserved to the Governor, powers given to the Governor to act in a case of emergency. In forming a Ministry we have to consider whether the Ministry so formed or proposed to be formed will be in a position to act in accordance with the ideal of the country, if not at once, at least in the near future. In the first place, there will be subjects wholly transferred to the popular control. Over these subjects, or the Ministers to whose charge these subjects are given, there will be full control; whereas with regard to other subjects which will be reserved to the Governor-General, the Minister, if there is any, will not be responsible to the Legislature. That is the idea thrown out during the discussion.

My Lord, I will now deal with the Ministers who are to take charge of the portfolios which are transferred to the popular control. The Governor should be in the position of a constitutional Governor in relation to these subjects. The Ministry formed should be from the largest party in the Council. They should have joint responsibility and should answer for their actions to the Legislature. In forming the Ministry the Governor will, of course, as is the usual practice in the other self-governing Dominions, send for the leader of that particular party to form the Ministry, and when he has supplied the Governor with a list of his colleagues, the Governor will announce his agreement to it. The appointment of Ministers, of course, should not be confined to the Lower House. The party in power, the largest party, should have the choice of selection from both Houses of the Legislature; but we do not agree that nominated members in the Upper House or Lower House should be taken into consideration.

Major Graham Pole: But suppose your Prime Minister wanted to do so?

U Ba Pe: I am going to state our reason for that. Because we are not going to enjoy, if my impression is correct, full responsible government yet, and, during the transition period at least, the appointment of nominated members to the post of Minister, viewed from the Burmese sentiment of course, will have rather a bad effect, that is to say in Burma. I am thinking of it from the purely Burmese point of view, not from the political theorist's point of view.

Chairman: You mean that you would not trust the leader of the strongest party to appoint, if he chose, a nominated man? You would prevent him doing that, even though, in his judgment as leader of the dominant party in the Assembly, that was the proper thing to do.

U Ba Pe: Not exactly that, My Lord, because there are dangers. It is not a question of not trusting the leader of the party. The danger lies in the fact that, according to the demand made by the other side, there will be communal seats, and special seats and so on. We are thinking of the dangers that are ahead.

Chairman: I quite understand that, but I want to be quite clear. Here you have a Minister who according to you is the leader of the dominant party in the Assembly and in the other House. He might want or might not want to appoint as a Minister a nominated member. You would say "No, under no circumstances shall that be open to you."

U Ba Pe: During the period of transition.

Chairman: You would say: "We do not trust you to exercise your judgment in that respect."

U Ba Pe: During the period of transition.

Chairman: Is that not so?

U Ba Pe: Yes, but not that we do not trust the leader of the party.

Chairman: I am only saying that is the effect of what you are saying.

U Ba Pe: No, the effect is not that.

Chairman: Well, I happen to disagree with you on the inference.

U Ba Pe: I am just letting you know the Burman sentiment on the subject.

Chairman: Oh, certainly

U Ba Pe: You may not agree with it.

Chairman: It is not a question whether I agree with it or not. I am drawing certain deductions from what you say, and I say the result of what you state is this—that you will not allow the freedom to the Chief Minister to select any Minister—I want to put it as strongly as I can to bring out your view—however capable, from the nominated members; is that so?

U Ba Pe: Well, I do not quite admit that; still I have no objection to your drawing your own conclusion.

Chairman: I only want to bring out exactly what you mean; that is all.

U Ba Pe: The exact position is this. During the last nine years of Reforms the whole country has suffered as the result of these nominated members, official blocs, communal blocs and so on. The official bloc will go. The nominated members, also, will go as far as the Lower House is concerned, but you will retain them in the Upper House, and then there will be a communal bloc again in the House, much against the wishes of the country. Now, a combination of nominated members and communal blocs, with a small section of elected members, will again form practically into a big bloc as we have at present in Burma, and then do things which are not in accordance with the wishes of the people. That is the fear.

Chairman: That is your fear. The only thing was, it occurred to me that the Chief Minister would probably be able to judge of that pretty well himself, would he not? I do not want to press you further. You do not want him to do it, because he himself being leader of the dominant party would probably be a good parliamentarian, and would know.

U Ba Pe: I will just illustrate to make clear my point. In a House of, say, 150 members, you are going to have a bloc of, say, 20 or 25

communal and special interests. Then the balance over 100 may be divided into three groups, more or less equal in number. Then one of those three groups can combine with the communal group and form the majority in the Lower House. Then the other groups, which will be rather smaller groups, will say, "Very well, we will co-operate with you; you nominate one of our men in the Upper House." Then that man will be nominated to the Minister's post, that small proportion will come in and the net effect will be that they will have a majority in the House but will not represent the feeling of the country.

Chairman: Yes, but the Chief Minister need not appoint one unless he wants, according to you

U Ba Pe: But he will not get that support unless that man is appointed. The other groups will say, "Unless you give this post to us we will not join with you"

Chairman: But he would not get their support, then, if he did not have them.

U Ba Pe: Yes. Then the other group will be approached again. There will not be what we call stable government in the country. That has been the result of nine years of Reforms in Burma.

Chairman: You are looking rather to a new Constitution. Do not found your ideas on what has happened in the past.

U Ba Pe: I want to avoid a repetition of what has happened in the past.

Chairman: All I want to be clear about is this. As you want to fetter the freedom of choice of your Chief Minister by laying down this rule, do you wish the rules to be laid down in the Act?

U Ba Pe: During the transition period I must, yes.

Chairman: In the Constituent Act?

U Ba Pe: Not necessarily in the Act.

Chairman: Thank you. I see now.

U Ba Pe: I was saying I would not confine the selection of Ministers to the Lower House only, but to the Upper House as well, provided, of course, they are drawn from the elected members.

Chairman: May I ask you a point on that, because we have a regulation about that here. Would you permit the Prime Minister, if he chose, to confine Ministers entirely to one House or the other—say, to have all in one House and none in the other?

U Ba Pe: That I would leave to the Prime Minister or Chief Minister or whatever you call him.

Chairman: Here, of course, we have another rule, as I dare say you know.

U Ba Pe: I know.

Mr. Hall: May I just follow that up. Do you not think it advisable to have some representation in the form of Ministers in the Upper House?

U Ba Pe: Yes, highly desirable; but at the same time I do not wish to fetter the Chief Minister, or whoever he is, now. As far as possible, we should give him freedom except in cases where we think there

is some sort of necessity. But, of course, it will be to his advantage to have a representative in the Upper House.

Major Graham Pole: Certainly.

U Ba Pe: I do not think any man of common sense will confine his selection to the Lower House only.

Mr. Hall: Would you agree to a minimum number of Ministers in the Upper House?

U Ba Pe: It is very difficult to say now.

Major Graham Pole: You might have a minimum of one, and say that there must be one Minister in the Upper House.

U Ba Pe: You could have a minimum of one, but you may require more, of course.

Major Graham Pole: You could then get the point of view of the Chief Minister put in that House by a member of that House, which seems a good thing.

U Ba Pe: But of course the Ministers will have the right to address both Houses.

Major Graham Pole: But if a Minister is not a member of the House it is not quite the same thing as having a Minister who is a member of that House who knows his own House to address it.

U Ba Pe: At the same time you must take into consideration the permission granted to the Ministers to address both Houses if they choose to do so. That will place the Upper House in a position to know exactly how a matter is regarded from the mouth of the Ministers themselves.

Lord Lothian: There is another aspect of the question. I think each House will require a leader, who possibly will require a majority, and the most obvious person to lead the House is a member of the Ministry. If you do not have that you may have the leadership organised against the Government. Leadership is a very important element in managing these things.

U Ba Pe: I know.

Lord Lothian: There is a good deal to be said for having one member of the Ministry in the Upper House.

U Ba Pe: I agree there should be someone, but I do not want to say how many.

Major Graham Pole: If you will even agree that there should be at least one member of the Government, one Minister, in the Upper House I think that would help.

Pe: If the principle is accepted that there should be Government representatives in the Upper House there should be at least one; no question about that. I do not want to state a number. As regards the total number of Ministers, the number of eight suggested in the note. I do not quite understand whether this will include what some of the speakers call Ministers in charge of the reserved subjects. If they are not included, it may not be necessary to have as many as eight to begin with; we may be content with six or seven. The note suggests eight, and I do not think we shall want more than eight, at any rate.

Chairman: Do you wish to lay down an upper limit or not?

U Ba Pe: I do not want to lay down any limit.

Chairman: You do not want any limit?

U Ba Pe: No: I would rather leave it to the Government of the day to fix it from time to time.

Major Graham Pole: But you know there will be a great deal of pressure on the Chief Minister to put a great many more people in the Ministry.

U Ba Pe: But of course the finances of the country will have to be taken into consideration.

Major Graham Pole: That is what we have always hoped here!

U Ba Pe: The financial position of the country will put a limit to such pressure. I do not think we need more than seven or eight Ministers at the most.

Major Graham Pole: There is a difference, is there not, between the Ministers who are in the Cabinet, so to speak, and other Ministers outside?

U Ba Pe: I know.

Major Graham Pole: We have men here like the Postmaster-General who are not in the Cabinet. There need be no limit to your Ministers, so to speak, if you will limit your Cabinet.

U Ba Pe: Yes. I am talking about the Cabinet and not of the members of the Government because in Burma I do not think we can afford the luxury of Cabinet Ministers plus so many members of the Government. I do not think we shall be able to afford that in Burma for many years to come.

Chairman: Can you afford the luxury of Under Secretaries of State?

U Ba Pe: Even that is doubtful.

Then there is a mention of salary in the note. I am opposed to fixing the salary in the statute itself, but there are one or two things which I think we might as well point out here.

The present system of government in Burma is rather top-heavy. We have officials drawing fairly big salaries, and because of that it is thought that the Ministers and members in charge of reserved subjects should get more than those officials. I think that is a wrong way of looking at the matter. The Minister's salary is Rs. 5,000 a month. I do not think Burma can afford this high salary, it should be reduced materially. It is said that a lower salary would not attract good men, but I do not want men to join the Ministry for big salaries. I want them to accept a post in the Ministry, not because of the salary, but because they think they can do something for the country. They should accept a post for patriotic reasons and not for increasing their own material welfare. On the whole I think we should reduce the salary, but the amount will depend on the number of Ministers required at the start.

Chairman: I think it was suggested, no salary at all.

U Ba Pe: Yes, I like that idea.

Tharrawaddy U Pu: That would be forcing them to take bribes, if they were paid no salary

U Ba Pe: I think I have made myself clear on the main points. The Ministers should have joint responsibility. There should not be a vote to reduce a particular Minister's salary or a vote of censure against one Minister. Such a vote of no confidence should be against the whole Ministry.

Major Graham Pole: Suppose the Government brought in a Bill that was defeated. Would your Ministry resign then or simply drop the Bill?

U Ba Pe: If the defeat could be interpreted as a "vote of no confidence," the Ministry should resign.

Major Graham Pole: You mean simply on a Bill brought in and defeated.

U Ba Pe: There might be fundamental differences between the Opposition and the Government on that Bill. If it can be interpreted as a vote of censure, I think the Ministry should go out.

Mr Hall: You would allow the Ministry to decide whether it was a vote of censure?

U Ba Pe: In your own country your Prime Minister decides whether it is a vote of censure or not. I remember two or three such occasions last year. It will be so in Burma. The practice will grow up, though there may be some confusion at the start. With the precedent of this country before it, I do not think Burma will go wrong.

Mr Hall: Will a bare majority be sufficient to turn out the Ministry?

U Ba Pe: Yes, why not?

Mr. Isaac Foot: If they accept it as a vote of censure or of "no confidence."

Chairman: This matter was discussed a good deal at the Indian Round Table Conference. With the avowed intention of giving more stability to the Executive, Sir Tej Sapru and other prominent Members urged very strongly that for a vote of censure to turn out the Government there should be a regular procedure, that notice should be given and so on; that it should be rather more a ceremonial affair than an ordinary vote, and that there should be not a bare majority but something larger than a bare majority. I mean various suggestions were made. Might I know a little more fully your view upon that? You have in a sense answered it, but I rather press it, because it was, as you know, stressed a great deal in the Indian Conference. Would you make no distinction at all between defeat of the Government on an ordinary vote—it might be on a grant of supply or anything of the kind—and a vote of censure? Would you apply exactly the same procedure in all cases?

U Ba Pe: I follow the distinction between the two. At present, of course in Burma we have both forms in operation. One is the vote of "no confidence" in the Minister by reducing his salary or by having a special motion to that effect signed by so many members. The other is that during the Budget we can make a nominal reduction to discuss the policy of the Government over that particular Department as a vote of censure. We have these two forms already at work in

the Burma Legislative Council. On both occasions I believe the bare majority is sufficient to turn out the Ministry.

Chairman: And you think that should be retained, do you?

U Ba Pe: I think the procedure is known to the people there; it works very well; it should be continued.

Major Graham Pole: I should like to know if in your view the Governor should preside at Cabinet meetings, or whether the Governor should have the right to call Cabinet meetings when he likes, and if he should normally preside.

U Ba Pe: As a constitutional Governor ordinarily he will not preside over the Cabinet meetings, but I want to give him the right to preside at the Cabinet meetings.

Major Graham Pole: At his discretion?

U Ba Pe: Yes, at his discretion. I think, My Lord, I have dealt with what may be called the popular side of the new Government. Then there is the other side, the reserve side.

Chairman: These subjects are all closely connected. I was wondering whether, before we get on to that, we could get other views on the points that you have raised. I do not mind when the reserved side is discussed, of course; I was just thinking it might perhaps come better with the discussion on the Governor, the next subject. I am rather in your hands in that matter.

U Ba Pe: Yes, I think we had better discuss it separately.

Sir O. de Glanville: My Lord, this question of the Ministry's responsibility and when they should resign is, I think, one of the most important points with which we have to deal. I assume that we are agreed—that is all the Burmese Members and, I think, the Delegates from Burma—on the principle of joint responsibility. Now, if we are agreed on that, we have to consider a number of other points. This Ministry will be jointly responsible for the administration of every transferred subject, and if they bring forward a measure—a Bill or a motion—in regard to those transferred subjects and are defeated, then they have not got the confidence of the Lower House; and, I think, if we are going to develop the sense of responsibility in the Council, we must compel them to resign. It should not be necessary afterwards to have a vote of "no confidence" in the Ministry—a Ministry which is not able to carry out its policy. I should like to make that clear. One of the suggestions is that the Ministry should bring in a Bill with regard to education, or police, or any subject which they consider of vital importance. They have given their considered opinion to it and they ask the Council to pass it. The Council refuses, and it is suggested that they should not go out on that, but that there should be a formal vote of "no confidence" in the Government passed, though it might have to have a certain majority to carry it. Well, of course, the result would be that they might lose their Bill that they brought in which they considered of importance and yet succeed on the vote of "no confidence." The position seems rather an impossible one. I do not see where responsible government comes in at all if we allow that.

Major Graham Pole: But may I ask Sir Oscar this. Suppose a Bill is one that they consider important, but not of vital importance, and they are defeated on that?

Sir O. de Glanville: I think in a case of that kind the Ministry would make their position perfectly clear beforehand. They would say, "We do not consider this is a matter of vital importance." We can conceive such a situation, many Bills would arise like that; and if they saw that the feeling was against them they would probably withdraw the Bill; that would be the wisest thing to do.

Major Graham Pole: But if they went on and were defeated?

Sir O. de Glanville: If they went on I think the Ministry would make it clear, and say, "We do not regard this as a matter of policy; we have brought up this Bill; this is our view, and we hope to get a majority on it, but we do not regard it as a matter of vital importance." Then they would not go out.

Mr. Isaac Foot: The point is after the defeat, Sir Oscar. It should be perfectly open, should it not, for the Minister to say, "I do not regard that defeat as being vital." It would then be open for the Opposition to say, "We challenge you"—to issue a definite challenge, and then a vote of censure would be put down on the Order Paper.

Sir O. de Glanville: That is true; but we have got to look at it a little differently, I think, in Burma than here. Supposing you had a number of members in the Council who were prepared to refuse measures but at the same time wanted to keep the Ministers in powers they could refuse measure after measure, refuse to bring in a vote of "no confidence," and it would seem to me to be rather the end of responsible government altogether.

Major Graham Pole: It would in these circumstances—if you could get any Parliament that was so foolish as to go on like that!

Sir O. de Glanville: Well, I do not put it as outside the bounds of possibility. I am sorry, but I am judging from our experience in the past, and it may be possible. I think our friends on the other side would be very wise to consider this point, as to whether, when it is manifest on a vote of the House that the Ministry cannot carry the measures that they put forward, it ought not to be at least a convention that they should resign. If you do that, then Ministers will naturally be careful, and it will also develop a sense of responsibility not only in the Ministers but in the Members of the Council.

Major Graham Pole: But surely if the Ministry brought in Bill after Bill and the Bills were defeated, and they could not get on with business at all, they would be compelled to resign?

Sir O. de Glanville: They would be, probably, in that case, and we might get some more Ministers in from the Opposition who had been defeating those Bills, and the same thing would be gone over again. It is one of these points that may arise in Burma. I cannot keep away from my mind that you may have in the Council in Burma a large number of members who want to wreck the constitution, and if the Ministry does not have to resign when they cannot carry their measures I think there is that danger.

Tharrawaddy U Pu: Would you not like to follow the practice of this Mother of Parliaments in this respect?

Sir O. de Glanville: I do want to follow the practice of the Mother of Parliaments, and I know if the Government was defeated on a vital matter they would resign straight away. I do not think it would be necessary in the case of a British Ministry that failed on a matter of policy on which they had entered office, and had brought in a Bill, to say, "Oh, no, we insist on a vote of 'no confidence.'"

Dr. Thein Maung: Have such things happened in Burma before?

Sir O. de Glanville: What things?

Dr. Thein Maung: The Ministry being defeated and yet going on with the government.

Sir O. de Glanville: Well, during the last six years I cannot recall any occasion on which the Ministry has been defeated. Attempts have undoubtedly been made to defeat it but they have not succeeded. I cannot proceed further with that question, but I certainly do know this, that if the Ministry had been defeated on any vital point, I think, from my personal knowledge of matters, that the Governor would have demanded their resignation at once.

Mr. Ohn Ghine: May I ask another question? Does Sir Oscar expect the Government to label every Bill it brings forward or to say whether it is one of vital importance?

Sir O. de Glanville: No, you cannot lay it down in the statute; it has got to be a matter of convention. The convention will arise, and everybody will be perfectly clear on the point. What I want to avoid is laying down in the Constitution that in order to turn out a Ministry there must be a direct vote of "no confidence." I think that would be a mistake; it should be left to the future. A convention with regard to it has grown up in the British Parliament, and I should like to see it grow up in the Burma Parliament; I should not like to see any hard and fast rule laid down in the Constitution.

There are one or two other points. My Lord, I need not repeat what I have already said—I expressed it, I think, very clearly a day or two ago—on the question of the Chief Minister being allowed to select his Ministers from either House, irrespective of whether they are elected or nominated.

One of the points referred to in the memorandum is the question of whether the doctrine of joint responsibility of the Ministers should be included in the Act or in the Instrument of Instructions, or whether it should be established as a convention. I have expressed my view already, namely, that I think that might be left to convention. I have not heard U Ba Pe's definite opinion on that, and I think it is a point, My Lord, on which we might get further opinion.

I have dealt with the question of the vote of censure. I think there might be something in the rules about a vote of censure, but I would not lay it down as a hard and fast rule that Ministers are only compelled to resign on a direct vote of censure.

With regard to the salaries of the Ministers, what is suggested in the memorandum is, I think, the proper suggestion, and that is that the salaries should be fixed initially in the rules attached to the new Government of Burma Bill, and that afterwards they should be fixed by an enactment of the Legislature which should not be altered during their term of office. That is what is suggested, and that is practically what we have at present. The present salary was originally fixed by

Government, and it was later fixed by an Act of the Burma Legislative Council. I think the same procedure should be followed in the case of Ministers, but that no Council should reduce the salary of Ministers during their term of office. That would avoid what we have every year now, namely, motions to reduce or to refuse the salaries of Ministers.

Major Graham Pole: That is to say, not an individual member during his term of office, but during the life of that Parliament? I think that is what is suggested here.

U Chit Hlaing: During the tenure of the office.

Tharrawaddy U Pu: Five years would be the life of the Government.

Sir O. de Glanville: What I think is intended here is the five years, assuming that they hold office for the whole of that time. The next point is one which has not been touched upon so far, that the Governor should be entrusted with the making of rules of business, that he should preside over the Council. The question of making rules is a very important one. The rules at present for the Burma Legislative Council are attached to the Devolution Rules in our Manual, and are made by the Government of India. Here the rules are made by the Council itself. It is a very important point as to who should have the power to make rules in the future. There has been no expression of opinion from the Burman Delegates on that point.

Major Graham Pole: Are you going to mention your view as to whether a Minister should be in the Upper House or not?

Sir O. de Glanville: I had dealt with that the other day, and I thought I need not refer to it again. The Ministers should be taken from either House. There must be, I think, one in the Upper House, and the Chief Minister should have power to select from the Upper House one or more than one from any class of member. I have pointed out, and I repeat it as it may possibly be overlooked, that the test to my mind is the support of the Lower House. No Chief Minister is going to select as one of his Ministers, a member of the Upper House who has not a very large body of support and following in the Lower House. The test every Chief Minister would apply is, whether the inclusion of a particular Minister would weaken or strengthen the Ministry as a whole, and we must leave it to the Chief Minister in future to have an unfettered discretion in this respect. After all, he has his colleagues and his joint responsibility, and he must have the support of a sufficient number of members in the Lower House.

Tharrawaddy U Pu. Even nominated members?

Sir O. de Glanville: Yes

Tharrawaddy U Pu: If a Minister is taken from among the nominated members he must become an elected member within six months—that is the rule in India.

Sir O. de Glanville: The present rule is that he may be chosen from outside the House, but in that event he must become an elected member within a certain period; I am told it is six months.

Tharrawaddy U Pu: That is the rule in India, and I believe it is the rule in this country

Chairman: The Minister need not be elected here; a man might be appointed who is not a member of the Legislature, and he could be made a peer, and so an election would not be required.

Sir O. de Glanville: The equivalent to that in Burma would be this, that he either gets elected by having some member of the Lower House with a safe seat vacate it in his favour, or he can get some nominated member to resign and be nominated in his place.

Chairman: You have spoken of the Chief Minister selecting somebody from the Upper House, but you would contemplate the Chief Minister being in the Upper House, would you not?

Sir O. de Glanville: That might be so. I do not think that the leader of the strongest party in the Council would necessarily be the Chief Minister. I think it is quite likely that the Ministry in the future will be a coalition. There will probably be an agreement amongst them as to who should be the Chief Minister. That, I think, is a matter merely of convention rather than a rule to be laid down in a constitution. I think it should be a matter of convention rather than one to be laid down in the constitution as to who should be the Chief Minister.

Tharrawaddy U Pu: Not the leader of the largest party?

Major Graham Pole: As to who should be the leader in the Lower House.

Tharrawaddy U Pu: Then who is to be the leader?

Sir O. de Glanville: That would be settled I think, by the people themselves who are in the House.

Major Graham Pole: I see you look forward to the possibility of a National Government in Burma.

Sir O. de Glanville: Not necessarily the strongest party. My Lord, I come now to the question of officials or Ministers in charge of reserved subjects. I have expressed my views already. I do not think there ought to be any Ministers for reserved subjects at all; nor should there be any officials in the Lower House except under the circumstances that have been already mentioned; that is, that when matters connected with reserved subjects are being discussed, the Governor should have the right to send someone to the Lower House or the Upper House to represent him, to answer questions, to explain his views, and generally to carry out his instructions. To that extent I would allow them and not otherwise.

Major Graham Pole: But would it not be possible for the Governor to get the person who is in charge of the reserved subject, who is not a Minister, to explain to the Minister or to the Chief Minister, and get his point of view put like that?

Sir O. de Glanville: Yes, I would give free discretion to the Governor to appoint an official or non-official or a member of either House to represent his view; but I would not call that person a Minister. "Minister," I think, connotes some measure of responsibility. I am using the word "Minister" as indicating a Minister responsible to the Council. If you can call him a Minister responsible to the Governor, I do not think he has a place in a House which is dealing with, and only has, responsibility for other subjects. Therefore, I

would exclude the official entirely from the House except under the exceptional circumstances that have already been discussed.

Now, as to the number of Ministers, that is rather a difficult question. We cannot very well give freedom, I think, to the Council, certainly in the transitional stage, to appoint as many Ministers as it thinks fit. The rules attached to the Act, I think, might provide for the number of Ministers in the transitional stage, and that number should not be exceeded except, I think, with the consent of the person who it is decided is responsible to the Governor, because there would then be no difficulty.

My Lord, I think those are all the points I want to make. I shall be pleased to amplify my views if anybody wishes.

Major Graham Pole: Would you mind saying whether you think the Cabinet should meet as a Cabinet under the Chief Minister normally, and the Governor presiding when he wishes?

Sir O. de Glanville: Yes, I think normally the Governor might keep out, but the Governor certainly ought to be able to meet his Ministers whenever and as often as he likes.

Major Graham Pole: Yes at his discretion?

Sir O. de Glanville: At his discretion; and naturally when he did meet his Ministers, being the Governor he would preside. But I think the proceedings of the Cabinet should in every case be communicated to the Governor so that he is kept fully informed of what is going on. It is only on that condition that I was going to leave him out.

Mr. Cowasjee: Could the Governor call a meeting of the Cabinet if he so desired?

Sir O. de Glanville: Undoubtedly. The Governor should have full discretion to consult his Ministers whenever and wherever he pleases, and if he gets that power, then obviously he can call a meeting; otherwise he could not consult.

Chairman: Do you propose that the Cabinet should have a Secretary, then, to record its proceedings?

Sir O. de Glanville: I do not care how it is done—whether it is done by a Secretary or whether the Chief Minister communicates.

Major Graham Pole: You would keep minutes, anyhow?

Sir O. de Glanville: Yes, keep minutes. It is essential that the Governor should be kept fully informed of what is going on.

Tharrawaddy U Pu: He must keep minutes, you mean?

Sir O. de Glanville: I do not care whether you inform him by means of minutes or notes or a précis or a shorthand report.

Tharrawaddy U Pu: There is a practice here like that.

Sir O. de Glanville: I do not know what the practice is here.

Chairman: Yes, there is a practice. That practice has grown up for about twenty years.

Tharrawaddy U Pu: A record is kept?

Chairman: Yes; and how on earth the business of Cabinets was conducted without having a record I am absolutely unable to understand.

Tharrawaddy U Pu: It is twenty years ago now.

Chairman: Twenty or twenty-five years ago.

Lord Lothian: It was done in the war, was it not, in Mr. Lloyd George's time?

Chairman: No, it was done before the war. Minutes were sent round. However, I will not go into that now. You want the Governor to be kept informed, if he is not there, of everything that goes on. That is your broad point?

Sir O. de Glanville: Yes he must be fully cognisant of what is going on. Then he need not attend or preside unless he wishes.

U Ni: My Lord, since the introduction of the unsatisfactory Montagu-Chelmsford Reforms our country has learnt a good deal of constitutional law, and such terms as "responsible government", "dominion status," "joint and collective responsibility" and other similar terms have now become household words. It is not only lawyers and constitutionalists and those who take a special interest in these political matters, but even the man in the street has come to learn the inner meaning of such words as those I have just now mentioned, and that is why, when certain views are expressed here such as were expressed yesterday in connection with the High Court and so forth, I should like the British Delegates and the Government here to be very careful to find out whether these views have ever been expressed in public before they were expressed here. Some of the opinions have never been expressed in public—for instance, the views expressed by Mr. Cowasjee and Sir Oscar de Glanville regarding the High Court. We have never heard that in Burma.

Mr. Cowasjee: There was never any constitution-making, so there was not the occasion.

U Ni: Those views have never been expressed in public, and I know how long the political life of those gentlemen would be if they were expressed in a public meeting.

Sir O. de Glanville: On a point of order, My Lord, I do not want to be in any way obstructive, but if my friend U Ni had replied to me yesterday showing his dissent on the subject under discussion I would have had an opportunity of replying, but I think I shall be rather deprived of an opportunity of replying if he makes an irrelevant statement about what happened yesterday.

Chairman: I dare say U Ni will not make any more irrelevant statements.

U Ni: I made a remark in passing.

If the Ministry be defeated often, there is the question of whether they will continue or not. I do not think they can continue for more than a year; until the next budget, at the most. If they are self-respecting they will go out of office as soon as they find that they are unable to carry measures, which they regard as vital, through the Lower House. As soon as they are satisfied that a measure which they consider vital cannot be passed they will resign; but, as has been suggested, it would be much better and much more convenient for them to wait and see whether they are really losing the support of the Lower House. If they feel that they cease to retain that support they will resign. Otherwise, soon after the measure which they have failed to carry is defeated, a vote of censure may be tabled, as has been suggested by our friend Mr. Isaac Foot. I do not think, therefore, that any hard and fast rule need be laid down.

With regard to the Governor calling on the majority party to form a Ministry, that will be all right, of course, so long as what is called the majority party is well known, but there may be some doubt about it. Very soon that party will be confronted with the strength of the rest of the House, and, if the Governor is misled on that point, the Ministry will very soon be defeated.

Chairman: By the minorities?

U Ni: Perhaps by the minorities.

Chairman: I thought you were leading up to that!

U Ni: That might be so

Chairman: You wish the Governor to consult a powerful minority do you—powerful in ability but not in numbers?

U Ni: I would leave the matter to the Lower House. This matter of choosing a Chief Minister or Head of the Executive I would leave to the Lower House, which will form the Ministry.

Chairman: How would they select him, exactly?

Major Graham Poie: Suppose the leader of your majority party was himself standing for election for the Upper House and not for the Lower House, would not you have him form the Ministry?

Tharrawaddy U Pu: That is not likely to happen.

Major Graham Pole: In such a case would you still insist on the Chief Minister being in the Lower House?

U Ni: That is an extreme case.

Mr. Harper: It has not been agreed, I understand, that there should be direct election to the Upper House.

Chairman: Suggestions were made to that effect of course.

Mr. Harper: Yes.

U Ni: I think the suggestion is very valuable.

Sir O. de Glanville: Suppose the leader of the chief party in the country is defeated when standing as a candidate for the Lower House, it would then be open to him to stand for election to the Upper House, which, it has been suggested would be, to some extent, by the Lower House. Would you then object to him being Chief Minister?

U Ni: I am afraid I do not quite follow you.

Chairman: One could put a good many hypothetical cases, of course.

Sir O. de Glanville: I should like to put that as one of them—the case of the leader being defeated and standing for election for the Upper House.

U Ni: That is a very delicate point and one which might be well worth considering theoretically, but in practice I do not think it will ever arise.

Chairman: I did not quite understand one point you made about the selection of the Chief Minister by the Lower House. Do you mean a formal and actual election?

U Ni: I would not insist on it being too formal. A formal election was not quite what I had in mind. Another point, I think, is that the Ministry should retain their office for as long as they do not cease to have the support of the Lower House. Moreover, they are to continue until their successors are appointed.

Chairman: Their salaries will be paid until the next date when their successors come in?

U Ni: That is the procedure at present in our Burma Legislature. Further, the dissolution of the House should not take place on the advice of the defeated Government. The House should not be dissolved on the advice of a Ministry which has no longer its confidence.

Chairman: You say that somebody else ought to be sent for by the Governor to form a government, and he, if he wishes to do so, can ask for a dissolution?

U Ni: Yes, it amounts to that.

Lord Lothian: Supposing the new Government has not a majority in the House, you would be giving the right to bring about a dissolution to a minority Government. You might be unable to form another Ministry with a majority. Are you going to entrust a Ministry which has not got a majority with the right to demand a dissolution, and to refuse it to those who up to then have had a majority?

Major Graham Pole: How are you going to get your dissolution at all?

U Ni: It is only another instance where a Coalition Government should be formed, composed in part of those in the Government before the defeat. Of course, if that is not possible the only course would be to dissolve. Another point is that the Executive must prepare the usual Budget and so forth, showing the expenditure and receipts of the country, and place this before the House every year. That would be one of the duties which they must never fail in doing. We should like to have that provision inserted in the Bill. The responsibility should always be joint and collective, and they should act as a body. I will deal later with the question of the appointment of officials, or otherwise, to carry on other subjects. As was stated by previous speakers, the remuneration of course, should not be reduced during their term of office.

Chairman: You would make it non-votable during that period?

U Ni: During the term of office. There are just one or two things which I might seize this opportunity of mentioning to the Conference, because, after all, I trust that we all mean well. There is the question of the nomenclature of some of the posts or the persons holding those posts. For instance, there is the post of "Chief Minister." Our people are very sentimental as to the use of such terms. For instance, they would prefer that the Governor should be called the "Governor-General," so that when our Governor meets other Governors-General he may not appear to be inferior. As for the Chief Minister, the usual term they have in mind, and which is always employed in Parliaments, is "The Prime Minister," and they would prefer that expression. It will not make much difference; his salary will not be increased.

Chairman: I suppose you would give him a bit more than the other Ministers, would you not?

U Ni: Well, he would be the chief of the Ministers.

Lord Lothian: What is the word in Burmese, the actual word you would use?

U Ni: "Nan Yinn Wun." That means the Minister nearest to the Throne.

As for the number of Ministers, eight would usually be sufficient.

Chairman: Would you wish a maximum figure to be inserted in the Act?

U Ni: I do not know, My Lord; but it is much better to leave that out because sometimes it may be less.

Chairman: Yes, but I mean that it should not be more than a certain number, not that that should be the number.

U Ni: I do not see why it should be necessary to fix a maximum number even, because at times we may feel the need of adding one more and we do not want to have to repeal the Act for that purpose.

Chairman: There is, I think, only one reason; that is that if you are, say, the Chief Minister or Prime Minister, whatever title you like to use you have good men for seven or eight posts, but your supporters say: "put two or three more of us in," you can say: "I should be delighted to do so; you are all first rate people, but unfortunately I cannot do it under the Act." It is sometimes of benefit to be able to quote some rule.

U Ni: It will be a number which will be quite sufficient; it may be put in the Act.

Chairman: I think that is the only reason, or rather it is one of the reasons.

U Ni: Yes, a maximum number. I now deal with item (v) of this sub-head—the appointment to the Ministry of officials or other persons not members of the Legislature, or nominated members of the Legislature. As to the first point, the appointment to the Ministry of officials I have already expressed my views to a certain extent when we were considering the question of Defence. If we are to get any training and if we are to handle these subjects in future after the transitional period, I have considered the methods to be employed, which were adumbrated by the Indian Delegates at the Indian Round Table Conference. I have gone through the matter very carefully and spent time over it; I have tried to think out whether we cannot get some other alternative method, and whether it will be just possible to have that sort of training and readiness by having officials in charge as suggested by Sir Oscar; but after careful and anxious thought over the matter, I find it will not be possible to get that training so as to make us quite ready and able to take up these subjects at the end of the transitional period. So I submit it is highly essential that they should be placed in the charge of Burman Ministers who may be allowed to sit along with the other members of the Cabinet in the Council, trying always to master the subject thoroughly, so that at the end of the transitional period we will have men in our country who have been put in charge of these subjects, responsible to the Governor but able at once to satisfy the questions and requirements of the Lower House or the Upper House if necessary. Unless we have these subjects placed in the hands of Burman Ministers whoever they may be—I use the word "Burman" very widely; I do not confine it to Burmese Ministers only—

Mr. Ohn Ghine: I thought that subject had been held over, My Lord.

Chairman: Well, U Ni did say he was going to say something more about that later. I thought that particular subject might be discussed

under the heading of the Governor. I think U Ba Pe was going to discuss it too.

U Ni: Sir Oscar touched on this point, but I would like to reserve my observations.

Chairman: Yes. I think he was touching it in another connection. I agree that it is a little difficult to separate it.

U Ni: Yes, My Lord. I have almost exhausted what I would like to say. There is only the last point, the position of the Governor *vis-à-vis* the Council. I would leave the Governor to be able to summon his Cabinet, but ordinarily, of course—

Chairman: Well, you agree with what U Ba Pe says on that, I gather?

U Ni: Yes.

Mr. Harper: My Lord, to take first the appointment of Ministers, the procedure, as I understand it, would be that immediately after an election the Governor would call the man who was, as a result of the election, clearly marked out to be the Chief Minister, and that Chief Minister would put up to the Governor his list of men whom he considered should be appointed Ministers. If the Governor approved of that list he would then, I presume, appoint them. One has to make, I think, that provision, "if he approves," in view of the point that has been made in this memorandum, of which, in this instance, I think we all have a copy:—

"He would doubtless further be instructed that in this field he should be guided by the advice of his Ministers unless, in his judgment, that advice conflicted with any of the purposes he had been instructed by the King to secure, in which case he might dissent from and act in opposition to that advice."

We have not yet discussed exactly what instructions are likely to be given to the Governor, but I think that provision must be there. Obviously if the appointment of a Minister were contrary to those instructions he could not be appointed. The Ministers, I consider, could be drawn from either House, and they would definitely be appointed with the concurrence of the Chief Minister.

I will add in a minute why I think that is very important indeed. The principle of collective responsibility should, I think, be adopted by convention and not by any clause in the Act. All the Ministers would stand or fall together.

If these two principles are established—that the Ministers are chosen with the concurrence of the Chief Minister, and that they all stand or fall together—that seems to me to be in this matter the essence of responsibility, and that seems to me to have a direct bearing on the appointment or otherwise of officials or nominated members as Ministers. If these two principles are firmly established, it seems to me it would be very unwise for the Chief Minister or for the Ministry to deprive himself or themselves of the experience and knowledge which would be made available by the appointment of an official or a nominated member. If the appointment would not be acceptable to the Legislature then obviously the Chief Minister would not concur in the appointment of this official or nominated member; and if the latter stands and falls with them in collective responsibility he is absolutely on a par with them and would, I think, be able to work loyally with them, to the great advantage of the whole Ministry.

On the question of the Government being required to resign from office, I am inclined to agree with Sir Oscar that if the Government are defeated on any vital Bill they should, by convention, resign. Reference is made in this memorandum to a vote of censure, and the suggestion here is that no vote of censure should be brought against an individual Minister for anything he may be considered to have done wrongly in carrying out his duties. I think that also is important. No Minister should be open to attack individually as a Minister. If this principle of collective responsibility is firmly established, any complaint of that kind would not be against an individual Minister but would be against the Ministry as a whole, and if any vote of censure on that ground were required it should be against the whole Ministry.

Then there is the question of the number of Ministers. It is difficult at present to lay down any definite number. We have now two Members on the reserved side of Government, and two Ministers on the transferred side. Those departments will, of course, have to be carried on, and, in addition, there will be certain departments taken over from the Central Government, as it is now. Possibly six would be a suitable number at the start, but I should not like to suggest anything definite as to the actual number. I think the suggestion that a maximum of eight would be sufficient is one I could support.

With regard to the Governor's position, which I think is the last point, *vis-à-vis* the Council there again I agree with Sir Oscar, and as far as I can gather with all the other speakers who have mentioned this point, that the Governor should have discretion to attend and preside at any Cabinet meeting, but ordinarily he would perhaps not wish to do so, in which case the Chief Minister would preside. The Governor should always be kept in touch very fully with all that goes on in the Cabinet, and he would be, as I say, in a position if he wanted to do so, to attend any meetings. That point might be left entirely to the discretion of the Governor.

Mr. Haji: There are one or two general remarks which I should like to make in connection with the appointment of Ministers. The main one is this: An examination of the method followed in democratic institutions will show that once the Prime Minister has been picked out by the Crown or the Governor as the case may be, complete liberty of action is given to him. In this country you may even go to the length of appointing a man who is a member of neither of the two Houses of Parliament. It is quite true that such an individual cannot be a Minister for more than six months unless he gets himself elected to the House of Commons. But if the Prime Minister has made up his mind that he will have Mr. X, and there is a possibility that Mr. X might be defeated if he contested a parliamentary constituency, he could be made a peer and take his seat in the House of Lords. I think I am interpreting your practice correctly when I say that the Prime Minister, once he makes up his mind to have a particular individual in his Cabinet, can have that individual no matter whether he gets the suffrage of a constituency or not.

Chairman: Unless, of course, the individual does not desire it.

Mr. Haji: That is always understood. Of course, one gentleman so selected might refuse to be elevated to the House of Lords. But the Chief Minister has the unfettered right to choose the man he wants to have. For example, you will all remember how in one

Cabinet Lord Sinha was brought in. It is true that he was brought in as Under Secretary, but he might equally have been brought in as Secretary of State.

Major Graham Pole: But he was a Member of Parliament.

Mr Haji: It really amounts to this, that the only restriction put upon the discretion of the Prime Minister is that the Minister should be at the time of appointment either a Member of Parliament or should have in view a seat in one or other House. Applying this test to the case of Burma, it would work out in the following way: That we should give the Prime Minister full liberty of choice to select his man, whether the individual selected belonged to the Upper or the Lower House, irrespective of the section of either House to which he might belong. For example, you have a parallel case in the House of Lords itself. The English House of Lords may be said to consist of.....

Chairman: A large number of men of great ability.

Mr. Haji: But in addition to their ability, the principle of election comes in. There are, for example, the Scottish Lords, who I believe, are elected.

Chairman: Among themselves, yes.

Mr. Haji: Among themselves. I mean there is a constituency. That is all I am concerned with.

Chairman: That is right.

Mr. Haji: Then the House of Lords to-day is really in this position. We may regard the hereditary Lords as nominated, so to speak, for ever-permanently nominated. If we regard them as nominated, then the House of Lords to-day consists of a nominated section and an elected section; and there is nothing to prevent the English Prime Minister from choosing his men from one or the other.

Moreover, My Lord, what is the position in the Dominions? In Canada the Senate is a nominated House. The whole of the Senate in Canada is a nominated House according to the notes we have got. It is therefore for the Government to have a Minister in the Upper House to explain and guide Government policy. So that the principle is admitted that the fact that an individual is a nominated member should be no bar to his being selected for the post of a Minister by the Chief Minister. Again, in South Africa, nominated members are eligible for appointment. Therefore, once a man has become a Member of Parliament, either in the Lower House or in the Upper House—and particularly in the Upper House if you have two or three ways of recruitment—he should be an equal with the rest; and, as I have shown by examples, it is the case here. It is the case in the Dominions and I suggest it should also be the case in Burma; and that if you do not like it you can cut out nomination altogether. But once a man becomes a Member of Parliament he should be equal with the rest of them. That being the case, I do not see how the objection to one set of individuals in the Upper House being selected as Ministers can be upheld at all.

U Chit Hlaing: My Lord in respect of the Chief Minister I agree with Mr. Haji that he should not be fettered in his right to nominate any man he chooses. If a man who is a leader of the majority party becomes a Chief Minister, he ought not to be fettered by any other

consideration but the interests of the country to select a good man if he finds there is a good man who should be nominated by him.

As regards the appointment of Ministers and their salaries, as far as I can see there have been two Executive Councillors in Burma and two Ministers, all drawing Rs. 5,000 each; that means Rs. 20,000 a month for the four of them. If we were to have a Chief Minister in the new constitution, as my friend U Ba Pe suggests, he does not want to pay the Ministers as we have been paying at the rate of Rs. 5,000 a Minister; he prefers a lower figure; but he does not want to state the figure. I, for one, would suggest that the salary of the Chief Minister should be fixed at Rs. 2,500, and for the other seven Ministers Rs. 2,000 each. That will come to Rs. 16,500; that is less than the present expense.

Major Graham Pole: May I ask, do you insist on eight Ministers, or is that the maximum?

U Chit Hlaing: That is the maximum—from six to eight. That is why I am putting in the maximum amount of Rs. 16,500. I know some people would say: "Why should the salary of a Minister or a Chief Minister be lower than that of a Judge of the High Court or of the Chief Justice of the High Court?" There I disagree. Members of Parliament or Members of the Council who desire to be Ministers should sacrifice a good portion of their time and money for the sake of the country. I, for one, have devoted my time for the benefit of the country for the last 14 years without being paid a pice, and I have given up my practice from 1917 up to this date. If there are certain people who can sacrifice a portion of their income derived from their practice or business, they ought to sacrifice at least Rs. 2,000 or Rs. 3,000 a month, and I submit that, if a man's income in Burma were to be compared with the incomes in Britain, Rs. 2,000 or Rs. 2,500 a month is more than sufficient for a man to live on comfortably in Burma. There have been instances even of British Officers in Burma who have lived on Rs. 1,000 to Rs. 1,500 comfortably in Burma, and, therefore, I suggest that in the constitution-making we ought to have the salary fixed as well as the number of Ministers fixed instead of leaving these details to be worked out at the beginning in Burma.

Major Graham Pole: But would you never let Burma alter these? Would you put it in the Constitution?

Chairman: At first.

U Chit Hlaing: Yes, My Lord, I would put it in the Constitution, because Burma, as it stands, will not be able to stand this figure even, because in the nine years of the dyarchical system Burma has grown very, very poor. We have been greatly impoverished without any benefit to the country whatever. I say it with great respect to those who have taken part in the Council. As an instance of that, we had over 9 crores of rupees from the rice control profits fund. Not one pice went to the agriculturists, for whose benefit they were supposed to be kept.

U Tharrawaddy Maung Maung: Where are they spent? They are spent in buildings.

U Chit Hlaing: That shows that funds in Burma have been spent mostly for the benefit of those who had the management of finance. Therefore, I submit that we cannot allow the salaries of Ministers and the number of Ministers to be left with those who may form the majority in the Council. I want to see that this is fixed by Statute and not left to the party, whoever that party may be, that may be in the majority. I would also suggest that the pay of the President of the Council should be limited. At present the President of the Council gets Rs. 4,000 a month. He has only about 35 or 40 days a year when there are sittings, and he gets Rs. 4,000 a month at present. He may have to sit 60 days or 80 days a year in the new Constitution, and still he is to be paid Rs. 4,000 a month. That means Rs. 48,000 a year. I submit that his salary should be not more than Rs. 2,000, the same as the Ministers'. The Secretary of the Council is being paid Rs. 2,500 a month. His salary should be Rs. 1,500 and not more, because he is a whole-time man, while the President of the Council has very little to do. It is a fact that he has to give up his practice or business or whatever he has, but Rs. 2,000 is more than sufficient for him, as his work is not even half the work of a Minister's responsibility.

Chairman: I gather you want to make the salaries of the Ministers less than they are now, and you want an upper limit to be inserted in the Act itself?

U Chit Hlaing: Yes. There is an Act already passed on the question of salaries, and that must be abolished.

U Ni: That is not part of the constitution.

U Chit Hlaing: We must get rid of that, because Rs. 4,000 is too much, especially in view of the fact that the financial situation of Burma is very poor, and likely to remain so for some years to come.

Major Graham Pole: But after you have control of Burma's finances, and make her a wealthy country, you do not want to have any opportunity of raising the salaries?

U Chit Hlaing: I do not want these politicians who desire to serve the country to be paid handsomely. If they want to serve their country they must be prepared to make some financial sacrifice; they should not become Ministers in order to make money.

U Ni: But what of the gratitude which the country will show to them?

U Chit Hlaing: The gratitude of the country is not shown by the money which you can make out of it but by the sacrifices you make for it. The man who works for his country should make nothing out of it; he will be hated by some but applauded by others. It is not for the sake of gain that a man should serve his country.

Sir O. de Glanville: May I ask U Chit Hlaing a question? He has referred to the Secretary to the Council. He stated that this Secretary is a whole-time man, and he wants his salary reduced. I should like to ask him if he is aware that the Secretary is also the Deputy Government Advocate, and is only a part-time Secretary. The matter was discussed, and it was decided that we have not sufficient work for a full-time Secretary. Does he suggest that we should have a part-time Secretary or a whole-time Secretary?

Tharrawaddy U Pu: That is a matter of detail.

U Chit Hlaing: I know the gentleman in question, and it seems to me that his work as Deputy Advocate is very limited.

Chairman: I think we might now get back to the question of the Ministers.

Tharrawaddy U Pu: I should like to say a few words on this question of the Ministers before the discussion is brought to a close. Item (i) of our agenda is "The Council of Ministers, its appointment and composition." My friend has dealt with the appointment of the Ministers, and so forth, but I beg to suggest that in framing the Constitution we change the name "Council of Ministers" to that of "Cabinet for Burma." As my friend U Ni says, a name goes a long way in Burma. The Burmese people have now become familiar with such terms as Cabinet, Minister, and so on.

They know that in places where there is self-government such words are used, and therefore I think it would be advisable in view of Burman sentiment to use such words and phrases as "Cabinet Council" and "Ministers."

Mr. Ohn Ghine: Does he intend to rule out the Burmese equivalents?

Tharrawaddy U Pu: I am talking about the English names. You can call the Cabinet by the Burmese name of course. Then there is the question of the Legislature. We are having an Upper and a Lower House. To that Legislature I would give the name of Parliament, and would describe the Houses as Upper and Lower.

Major Graham Pole: Would you call your Upper House the House of Lords, and your Lower House the House of Commons?

Tharrawaddy U Pu: That would not appeal to the people of Burma. But the word "Parliament" would appeal to them. Sir Oscar de Glanville agrees with us that the leader of the largest party should be summoned by the Governor and asked to form a Ministry and to supply the Governor with a list of his colleagues who would accept office. I feel very strongly, My Lord, in this matter, that it should not be left to convention, but should be embodied in the Statute. This matter is important because the Burmese people will read from beginning to end the discussions in this Conference, and they will have to decide whether the constitution evolved as a result of these discussions is acceptable. Therefore, I suggest that you should consider this matter very seriously, and not decline the request of my friends on this side of the table to include this definitely in the Statute rather than leave it to convention. It will go a long way to satisfying Burman sentiment.

Chairman: You are speaking of joint responsibility?

Tharrawaddy U Pu: No but that the Governor should send for the leader of the largest party and that this should not be left to convention but should be in the Statute itself.

Chairman: Would not that be rather difficult? Suppose, as happens in this country, the leader of the largest party might find it inconvenient to form a government, so that it is necessary to form a coalition of other parties. Is it not rather unwise to stereotype the practice?

Tharrawaddy U Pu: I am not going into that, I ask you to put it in the Statute that the Governor shall summon the leader of the largest party to form the Ministry. The formation of the Ministry must be left to the unfettered discretion of the leader, as to whether he will draw his Ministers from the Upper or the Lower House.

Chairman: But I was taking the case where the leader of the largest party did not want to form a government.

Tharrawaddy U Pu: Then drive him out and let the next man in.

Chairman: Are you going to put that into the Statute also?

Tharrawaddy U Pu: No.

Major Graham Pole: We had the position in this country in 1924, where the leader of the largest party did not want to form a government, because of the coalition against him of other parties in the House.

Tharrawaddy U Pu: If he is a prudent man he will form his government in such a way as to make it stable by including others than his own party.

Major Graham Pole: It was not possible.

Mr Isaac Foot: But you want it in the Statute?

Tharrawaddy U Pu: If it is not possible for it to get a place in the Statute then we should try to get a place for it in the Instructions. I think that is usually done.

Chairman: That is, of course, quite different.

Tharrawaddy U Pu: Yes; thank you. I do not want to ask you to do impossible things.

Major Graham Pole: What we do not want to do is to frame a constitution or suggest a constitution that you are going to find unworkable in practice.

Tharrawaddy U Pu: Very well. Then as to the responsibility of the Ministers. I think everybody here agreed to secure joint responsibility of the Ministers. I think this should find a place in the Statute. I do not know whether you would agree with me, My Lord. Clearly the joint responsibility of the Cabinet should find a place in the Statute.

U Ni: That is quite possible.

Tharrawaddy U Pu: Then there is the question of the circumstances in which the Ministry should relinquish office. As Major Graham Pole said just now, and as my learned friend agrees, merely because a Bill put up by one of the Government Ministers is defeated, I do not think the Ministry as a whole should resign. If the representatives of the people wish to throw the Government overboard, they must, during the discussion or before the discussion of that Bill, make it clear to the Government that they are going to treat it as a vote of "no confidence" in the Ministry. Unless such a thing is clearly mentioned by the non-official members of the Legislature the Government would find it very difficult to resist the attack.

My friend talks about a bare majority. I find it rather inconvenient to see a Government in Burma defeated by a majority of one. I think one of your Governments was defeated by a majority of two or three.

I do not know whether I am right or wrong; it was some time ago. I do not remember that, and of course I am open to correction. I would not like to see that. Whichever party forms the Ministry in Burma, I do not think a Ministry should be thrown overboard by a bare majority of one or two. There ought to be some more votes than a bare majority of one or two; but I find it difficult to say at once how many votes should be provided for such a contingency.

Then there is the question of the appointment to the Ministry of officials or other persons not members of the Legislature. I cannot think of an instance in which you should appoint an official as a Minister, because the whole Ministry would stand or fall together. If one of the Ministers is found guilty of a certain thing, the whole Ministry must go. How can you send an official to form part of that Ministry? I do not know how that could be done. I cannot conceive of such a thing. So, in my humble opinion, no official should be appointed to be in charge of these subjects which are transferred to the popular control.

. Then there is the question of other persons not members of the Legislature, and nominated members of the Legislature. I submit the Governor should not appoint any person he likes, either official, non-official, elected or nominated. The unfettered discretion should be left in the hands of the Prime Minister and the leader of the largest following only and to no other person. If the leader of the largest following wishes to appoint a nominated member of the Upper House to form part of his Ministry, then I think he should be given the unfettered discretion to do that, because if that man falls, the whole Ministry would have to go. That is my humble opinion.

As to the position of the Governor *vis-à-vis* the Council, there was talk of the Governor presiding over Cabinet meetings. In ordinary circumstances I am averse to the Governor, presiding over Cabinet meetings. No doubt he should be allowed to preside at a Cabinet meeting if there are some special circumstances for him to do so. Otherwise, ordinarily, he should not interfere with the Cabinet. Of course, he must be kept informed. As regards the keeping of a record, I was told by Your Lordship that it has been the practice since the war to keep records of the Cabinet meetings here. No doubt it is a very good thing, but these things must be kept secret, I take it. I think they are usually kept secret too. If that is the practice here I think we should follow it in Burma.

Coming now to the question of salary, I must say that I am in entire accord with my friend and leader, U Chit Hlaing.

You talk here about the rule-making power, with a note that the Governor is to be entrusted with the making of rules for Burma. I submit that that is not the proper thing to be done. I do not think the Governor alone should be entrusted with the rule-making power. In India, at present, as was stated by one of my friends just now, the rules are made by the Government of India, and it is the Government of Burma alone who should be entrusted with the rule-making power for Burma, otherwise the Governor may frame rules which would make it impossible for the Cabinet to carry on. Then you have to remember that we must have a peaceful working of the new Government in Burma so, properly speaking, if you allow the Burma Government, rather than the Governor, to make the rules I am sure the Cabinet

of the day would frame the rules in consultation with the Governor. As soon as the new Government comes into office I am sure the first Cabinet will never go against the wishes of the Governor. You have to remember that. Please allow the Government of Burma, rather than the Governor, to make the rules.

As regards the numbers, you mention here in your notes eight. I think this should be the maximum number.

These are all the observations which I wish to make.

U Maung Gye: I have only a few remarks to offer, My Lord. I am opposed to the doctrine of joint responsibility being left to grow as a convention. My view is that it should form an essential part of our constitution from the start and should be embodied in the Constituent Act itself.

Then as regards who should frame the rules of business, my view is that the Governor should frame the rules in consultation with his Ministers, because, in actual practice, our experience was that the rules framed by the Government of India were not workable and had to be amended by the Governor in consultation with the Ministers; and, therefore, I think these rules should be framed by the Governor in consultation with his Ministers. That would make for the smooth working of the Executive.

Then, with regard to the salary of Ministers, I do not think details like this should be embodied in the Constituent Act; besides we do not want to bind the future Legislatures, and it is not of sufficient importance that it should come up to Parliament if an amendment is found necessary by the Legislature. Therefore the salaries of Ministers should be left out of the Constituent Act.

U Tharrawaddy Maung Maung: Does he agree with previous speakers about the salaries of Ministers?

U Maung Gye: I agree, generally, but I say such details should not be embodied in the Constituent Act.

Sir O. de Glanville: I should like to ask a question, My Lord. Would U Maung Gye have any objection to the salaries being stated in the rules?

U Maung Gye: In what rules?

Chairman: In the rules under the Act.

U Maung Gye: I have no objection, personally.

Sir O. de Glanville: They would be fixed in the first instance, I take it, by Parliament and the Secretary of State, and would then be subject to alteration subsequently by the rule-making authority whoever that was.

U Maung Gye: I have no objection to a provision of that kind.

U Ni: May I put a question to Tharrawaddy U Pu to clear up one point?

Chairman: Yes.

U Ni: During the course of his speech he mentioned the contingency of an official Minister being appointed. I take it that he meant for a reserved subject, but I want to be clear about that.

Tharrawaddy U Pu: Yes, that is correct. For the reserved subjects official Ministers may be appointed, but according to us those officials must be Burmans.

Mr. Campagnac: On the question of salaries, I do not see how you can avoid fixing the salaries either in the Constituent Act or in the rules. The Act might provide that the salaries could be revised at the end of a certain period, say five years, but in the first instance I do not think you could start your Government without fixing the salaries. I think there would be general agreement in this Conference that the salaries at present drawn by the Ministers are too high. There will also be general agreement that the finances of the country cannot support such high salaries. I am inclined, therefore, to agree with my learned friend, U Chit Hlaing, that Rs. 2,500 would be a sufficient salary for the Chief Minister and Rs. 2,000 for the other Ministers. In addition to that, I think the Ministers should be provided with houses in the same way that the Governor is now provided with a house. This would enable them to maintain their dignity of status and position. I think it should be made known that we do wish the salaries to be fixed at some such figure as that suggested by U Chit Hlaing.

Mr. Loo-Nee: I have listened with interest to the contributions made by different delegates, and arising out of these contributions I should like to ask who will have the power to appoint the Ministers, whether it will be the Governor, or what authority?

U Maung Gyee: It will be the Governor.

Mr. Loo-Nee: The Governor will appoint these Ministers. Will it follow as a corollary that these Ministers will all hold office during the Governor's pleasure?

U Ni: How can it be so?

Chairman: We have partly discussed that. When they find they cannot carry on they will probably send in their resignation. That will be the usual course.

Mr. Loo-Nee: I submit My Lord, that that is only a partial answer to the question. As it is agreed that the power of appointment reposes in the Governor, will it follow that these Ministers will hold office during the Governor's pleasure? I have a reason for asking this question, My Lord, because in the notes which have been given to us that is clearly stated, and I wish to know whether the Conference as a whole is in agreement on this point, or whether there is any objection to what is suggested here. The passage to which I am referring occurs at the bottom of the third page, under the heading "Appointment of Ministers" and it reads as follows:

"On the assumption that a wide field of government is to be administered in accordance with the will of the people of Burma, there would, in accordance with common constitutional practice, be Ministers to advise the Governor in this field appointed by him and holding office during his pleasure."

I believe that is accepted that the power of appointment lies with the Governor and the Ministers hold office during his pleasure.

Chairman: That is the accepted constitutional position.

Mr. Loo-Nee: It has been said also, My Lord, that the Governor will, as a rule, act on the advice of the Ministers. In case there is a

conflict of opinion between the Governor and the Ministers, what happens then?

Chairman: I think I suggested—I did not rule—that we had better discuss the position of the Governor when we come to the next subject. I do not want to get into a discussion on that point until we get to the next subject. Perhaps you will postpone that point.

Mr. Loo-Nee: Very well My Lord With regard to the salaries of the Ministers, I am in agreement with the views expressed by my learned friend, U Chit Hlaing.

Major Graham Pole: Do you want that put into the constitution?

Mr. Loo-Nee: Either into the constitution or into the rules as Sir Oscar de Glanville suggested.

Chairman: It is more flexible in the rules, of course, and it has the advantage that instead of having to pass a fresh Act when you want to alter the arrangement, the rules can be altered much more easily.

Mr Loo-Nee: It has also been suggested by my colleague that we should carry this case a step further, and that is that we should leave this question subject to the finances of the country, so that later, if necessary the salaries could be increased. On his question, My Lord, I think there is a great deal in what my friend, U Chit Hlaing, has said, that to be a Minister responsible in some degree for the welfare of the country should be regarded as in itself a great honour, and that the chief attraction about a ministerial post should not be personal gain. A good example of this public spirit, if I may introduce an example is seen in the case of Sir John Simon. He is receiving, as a Minister, a salary which does not compare with his income when he was a practising lawyer. Therefore, as in institutions and practice and procedure we are looking to the Mother of Parliaments for guidance, examples of public spirit and self-sacrifice as shown by some of the British Parliamentarians should also be imitated by us. I think the suggestion put forward by Mr. Campagnac is also a good one. While we should not aim at drawing a large salary, yet I think consistent with the dignity of the post held, it will be very useful for these Ministers to be supplied with official residences.

Major Graham Po'e: That is sometimes very expensive.

U Ni: May I put a question to my friend?

Chairman: Yes.

U Ni: May I know what is according to him the difference between irresponsible non-self-government and responsible government?

Tharrawaddy U Pu: I do not think this question arises, My Lord.

Chairman: Now, gentlemen, if no one else wants to address us, I think possibly we could close this subject. Much more agreement, I think has been shown this morning than on other occasions. We have reached a general agreement, first of all, about the position of the Governor, *vis-à-vis* the Council of Ministers or Cabinet, if I am to use that word. We have also reached general agreement about the joint responsibility of Ministers, though there has been some disagreement as to whether that should grow up by convention or whether it should be laid down in the Statute itself; but I think there is no division of opinion at all about the question of joint responsibility.

Then there has been a general agreement too I think—at least other views have been expressed, but certainly the majority view is in favour of laying down no specific rule about the majority which is necessary to turn the Government out. I think it is generally felt that that should be left to the working of agreement or convention or the discretion of the Chief Minister himself.

Those are three very broad points on which there is general agreement. I do not think I need go into the other minor ones: the question whether you should fix or should not fix, either in the rules or the statute, the question of the number of Ministers, the question of their salaries and so on. Those are smaller points. But, if I may, I rather congratulate the Conference on having arrived at general agreement on such very broad points as we have done.

May I just mention this last point. I express my own opinion: I think it was a mistake to make any differentiation as between the members of the two Houses either as between themselves or as regards their constituent elements, as to their qualification to be Ministers. To have one set of men set out as not being capable of being Ministers, though they are capable of being members of one of the Houses, is, in my judgment anyhow, a mistake. I should have thought it was quite enough to leave it to the discretion of the Chief Minister himself. He is in full touch with public opinion in Burma so as to be able to know whether or not that was advisable. That is the only point on which I want to make an observation.

(The Committee adjourned at 1-30 p.m. and resumed at 2-45 p.m.).

HEAD 12.

THE GOVERNOR.

The following points for discussion in connection with this Head were drafted by the Chairman:—

- (i) *Matters to be personally administered by the Governor.*
- (ii) *Matters in respect of which the Governor may intervene in the transferred field in order to safeguard specified objects.*
- (iii) *General constitutional powers of the Governor as the representative of the Crown.*
- (iv) *Exceptional powers in crises.*

Major Graham Pole: My Lord, I think that the question of the Governor and the Governor's powers brings us to what is really the crux of the whole Conference. Assuming that Burma is to be separated from India, the Government of Burma will undoubtedly deal with fields of administration that are still central and reserved in India, and it has to be admitted on all sides that there will be a necessity, or an advisability, for a transitional period for having some kind of safeguards, and that, I think, in the interests of Burma as well as of the Empire. In this connection I would like to quote from the speech made by the Prime Minister to the Indian Round Table

Conference on the first day of this month, which has been approved as the policy of the Government with regard to India, and which is equally applicable to Burma. I would like to quote that because it has been approved by both Houses of Parliament, and the Prime Minister in this declaration repeated the salient sentences of the declaration which he made at the beginning of the year, in January. These were:—

“ The view of His Majesty’s Government is that responsibility for the Government of India should be placed upon Legislatures, Central and Provincial ”—

of course, in Burma we shall have only the one—

“ with such provisions as may be necessary to guarantee, during a period of transition, the observance of certain obligations and to meet other special circumstances, and also with such guarantees as are required by minorities to protect their political liberties and rights.

“ In such statutory safeguards as may be made for meeting the needs of the transitional period, it will be a primary concern of His Majesty’s Government to see that the reserved powers are so framed and exercised as not to prejudice the advance of India ”—

in this case Burma—

“ through the new constitution to full responsibility for her own government.”

Then the Prime Minister went on to say:—

“ With regard to the Central Government, I made it plain that, subject to defined conditions, His Majesty’s late Government were prepared to recognise the principle of the responsibility of the Executive to the Legislature, if both were constituted on an all-India federal basis. The principle of responsibility was to be subject to the qualification that, in existing circumstances, Defence and External Affairs must be reserved to the Governor-General, and that, in regard to finance, such conditions must apply as would ensure the fulfilment of the obligations incurred under the authority of the Secretary of State, and the maintenance unimpaired of the financial stability and credit of India ”—

in this case Burma—

“ Finally, it was our view ”—

said the Prime Minister—

“ that the Governor-General must be granted the necessary powers to enable him to fulfil his responsibility for securing the observance of the constitutional rights of Minorities, and for ultimately maintaining the tranquillity of the State.

“ These were, in broad outline, the features of the new constitution for India as contemplated by His Majesty’s Government at the end of the last Conference.

“ As I say, my colleagues in His Majesty’s present Government fully accept that statement of January last as representing their own policy.”

That statement, published as a White Paper, has been approved by both Houses of Parliament, so it is within the four corners of that, that we must work in framing our suggestions for a constitution for Burma, and I should like to quote a few words that were used by

Lord Sankey as Chairman of the Federal Structure Committee. He said:—

“ We shall never achieve our ambition ”—
that is the ambition we all have, to frame a responsible constitution—
“ unless we understand one another and try to appreciate each other's hopes and fears. The coming weeks will afford an opportunity ”—
as the past weeks have afforded to us, and we hope the future sittings of this Conference will—

“ both inside and outside these walls of reaching an understanding. Such an opportunity may never come again in our lifetime. Do not let us miss it.”

I hope that we in this Conference will realise that we are here to try to understand the hopes and the fears of others and to try to put ourselves, so to speak, in the other man's shoes and try to see the position through his eyes. If we all take up that kind of position I think we will get very far towards an agreed solution. In the Third Report of the Federal Structure Committee of the Indian Round Table Conference the Committee started with the assumption that the future constitution of India must be drawn on lines which would provide a satisfactory solution of the problem of future self-government and in coming to this conclusion the Committee state, in paragraph 7, that they have taken into account:

“ (a) The widespread desire in India for constitutional advance;

“ (b) the natural desire of the Indian States to conserve their integrity.”

That of course does not affect us here, because it is not a Federal Constitution in that sense that we are considering.

“ (c) the indisputable claims of minorities to fair treatment;

“ (d) the obligations and responsibilities of His Majesty's Government; and

“ (e) the necessity, paramount at all times, but above all at a transitional period like the present, when the economic foundations of the modern world seem weakened, of ensuring the financial credit and the stability of Government itself.

“ 8. Without a spirit of compromise, such diverging interests cannot be reconciled; but compromise inevitably produces solutions which to some, if not to all, of the parties, may involve the sacrifice of principle.

“ 9. It follows that, in many cases, many members of the Committee would have preferred some solution other than that which appears as their joint recommendation. But recognising that the basic aim of this Conference is, by the pooling of ideas and by the willingness to forego for the common good individual desires to attain the greatest measure of agreement; above all, recognising that the time has come for definite conclusions the Committee are prepared to endorse the conclusions set out in this Report.”

I think these considerations should be with us here. In going over the list attached to the Devolution Rules of the Government of India Act we find that a great many subjects which have been reserved and are at present reserved to the Government of India are going to be transferred to the Government of Burma. Amongst those transferred subjects would be: communications, railways and extra municipal

tramways, aircraft and all matters connected therewith, except that in so far as those may possibly touch the subject of Defence, naturally the Governor would have some responsibility; inland waterways, shipping, lighthouses, beacons, lightships and buoys, though possibly in transferring these the Burma Government would like to come to some arrangement with the Indian Government to set up a Statutory Lighthouse Board for both India and Burma; ports, always keeping in mind that the Rangoon Port Authority is already constituted and that it would be desirable and natural to retain that in its present form; posts, telegraphs, telephones, including wireless, that of course would be subject possibly to the reservation that the Governor would be responsible for the excluded areas; customs and excise duties, incometax, salt and other sources of Burman revenue, public debt, subject of course to the debt obligations being provided for, on which everyone here is agreed; Savings Banks, the Audit Department, in reference to which there would probably be in the Act provisions for the appointment of an auditor; civil law and everything connected with that; civil debts and responsibilities; commerce, including banking and insurance, which would probably be subject to the Governor's responsibility to prevent discrimination against foreigners; trading companies and other associations, with probably the same reservation; control of production, supply and distribution, and so forth, in Article 19 (and there it might be desirable to have some understanding or convention with the Government of India, say about quinine plantations, or something like that); the development of industries; the control of cultivation and manufacture of opium; stores and stationery; control of petroleum and explosives; the Geological Survey (and in connection with that and the Botanical Survey, probably it would be desirable to arrive at some arrangement with India in the interests of both countries, and particularly the interests of Burma, to use the services that are there, at least for a time, until Burma should build up her own if she wished to do so). Then there is the control of mineral development, and that would probably be subject to the Governor's responsibility to see that the League of Nations' Conventions were being observed; inventions and designs, and in that connection probably Burma might want to make use of the Patent Office in Calcutta; copyright, and there again probably Burma would want to be bound as other countries are by the Copyright Convention; emigration from and immigration into Burma, the latter, of course, touching the Governor's responsibility for minorities, while emigration from Burma might possibly touch also on the Governor's responsibility, as it might have to be the subject of negotiation with other countries.

Then there would also be transfer of criminal law, including procedure, Central police organisation, and the control of arms and ammunition would, of course, have to follow that. The next item is Central agencies and institutions for research—there again Burma might want to have some convention with India for the use of the Central organisation for the time; the Survey of Burma, relating to archaeology, geology and meteorology might be arranged with India also, thought transferred to the Government of Burma. Statistics would also be transferred. Then we have the item of immovable property acquired and maintained at the cost of the Governor in Council, although some adjustment with India might be necessary there.

With regard to Provincial subjects, all those so far reserved in India would be transferred to the Government of Burma, including local self-government, all matters relating to district corporations and the like, medical administration, public health and sanitation, pilgrimages within Burma, education, public works, such as water supply, and irrigation of canals, land revenue administration, famine relief, agriculture, the civil veterinary department officials, co-operative societies, land acquisition, excise, administration of justice, provincial law reports, and various other things—there is a formidable list. It includes items like official trustees, non-judicial stamps, judicial stamps, registration of deeds and documents, registration of births, deaths and marriages, charitable endowments, development and mineral resources, development of industries, industrial matters, including factories, boiler houses, electricity, gas, smoke nuisance, labour, weights and measures, adulteration of food-stuffs, ports, inland water-ways, police, control of newspapers, vagrancy, prisons, and so forth.

European vagrancy, prisons, and so forth. I might go on with that list. There is there a tremendous list of things that would be transferred to the Government of Burma that are at present reserved subjects. When one compares with that, the subjects that for the period of transition would be reserved to the Governor, we find that they are really very few in number. The Governor, it is proposed, I understand, would reserve to himself the subject of Defence. That we have already discussed. Then there is external affairs; that, I think, we touched on to some extent. There are: The Excluded Areas and the relations connected with that. Monetary Policy, Currency and Coinage might be included under the financial stability of the country. As to ceremonials, titles and honours, I do not suppose anyone would ever suggest taking those out of the Governor's hands. Ecclesiastical administration might probably come under the Defence part. Then there is the official personnel recruited or appointed by the King or by the Secretary of State or by the Governor in respect of subjects administered by him.

Then the Governor would probably have to decide finally whether a matter fell within these heads that I have just enumerated or not, particularly in connection with matters in which he is declared to have a special responsibility, like the protection of Minorities, the preservation of Burma against grave internal peril, the protection of the rights of those officers that I have mentioned, for safeguarding Imperial interests or for the safeguarding of the financial stability and credit of Burma and the fulfilment of her debt obligations. Probably if any other question arose that affected Burma generally which was not distinctly specified, one would have to leave the power somewhere to interfere for the good government and tranquillity of the State; and that would probably have to be left in the hands of the Governor. But I think when one looks at the list, which I have only partially enumerated, of the things that are being transferred that have been so far reserved, one has got a very formidable list; and when one looks at the list of things that it is proposed to be still reserved during the transitional period, one finds that, in comparison, the list is very, very small indeed; and, although it includes some of the vital subjects, they are matters on which it is necessary, for a time at any

rate, to have the control in some hands—probably in the Governor's hands—until Burma is ready to take over the full self-government for herself in all these subjects. That is a thing that only Burma can prepare herself for, and only Burma can practically decide when it is ready to take it over.

My Lord, I do not propose to say more now, because I think I have enumerated the kind of things that I think our discussion should be directed towards.

Tharrawaddy U Pu: My Lord, may I ask one question?

Chairman: Yes.

Tharrawaddy U Pu: It is only to make the position clear. We would like to be informed specifically as to what subjects Major Graham Pole proposes to be left to the entire discretion of the Governor, and what subjects are proposed by him to be reserved, and the manner of reservation. I want a clear list, you see—a list of all these reserved powers which are subject to the Governor.

Major Graham Pole: I thought I had done that.

Tharrawaddy U Pu: You have mixed up the whole thing; you have mixed up a long list of transferred subjects. That is why we cannot understand. We do not want that. We want only the subjects which ought to be entirely reserved to the Governor and some partially reserved to the Governor during the transitional period.

Lord Mersey: My Lord, if I may say so, Major Graham Pole's speech appeared to me to be extraordinarily clear and explicit. I certainly have got a very lucid idea in my mind after having listened to what he said as to which subjects were to be transferred, and as to which subjects were to be reserved; but I will not waste time by enumerating them. There was only one point which perhaps was not quite fully put. That was that the Governor in the last resort must of course have controlling or overriding powers in order to preserve the tranquillity of the State or law and order if that tranquillity is threatened.

In any constitution that I know of I think it will always be found that some such power is reserved to some authority, and I think it must be clearly laid down that in the last resort the Governor could override, supplement or supplant, if necessary, the power to maintain law and order if it appeared to him that it was not being properly exercised or was not going to be properly exercised by his Ministers.

Tharrawaddy U Pu: Even in a transferred field?

Lord Mersey: I think in any sphere, in the last resort.

Mr. Isaac Foot: On that question, taking that point, even if in the transferred field some question arose that did affect tranquillity, I suppose the overriding power would be there on that very rare occasion. The Chairman this morning warned us against taking the hypothetical case. That would be an almost unimaginable case, and extremely remote; but if the overriding power was given—and that was discussed at great length in the Indian Round Table Conference—that must rest simply upon one decision at the end. No one can take that decision but the Governor. If the Governor comes to one point where he says "In this respect some overt act has taken place or may take place which in my opinion jeopardises the

tranquillity of the Realm for which I am responsible, or if I have reason to apprehend"—so the Governor may say—"that some such act is to take place," then the decision must ultimately rest with him whether or not that rare power is to be invoked; but it is a power that is only to apply to the crisis or to what the Governor understands to be the crisis. Certainly the last thing that is suggested—and that would be inconsistent with a proposal for self-government—is that the Governor should be intervening in what may be the ordinary work of the Government of Burma. The ordinary work of the Government of Burma, with very wide powers—and they were included in the list read by Major Graham Pole, very wide and extensive powers—would pass to those who would be the representative governors of the country, but the ultimate decision in relation to the tranquillity of the Realm—I suppose that is beyond dispute here after the long discussion we have had at the Round Table in relation to India—must rest with the Governor, and the decision whether the circumstances have arisen justifying those powers is a decision that can only be taken by himself.

Mr. Harp: While we are on this subject of law and order I should just like to expand it a little bit in this way.

It seems to me that there are two essential conditions which must be borne in mind when we are considering the question of transferring the control of law and order to a new responsible Burma. In the first place, we must consider the instinctive respect of the people of the country for law and order, and in the second place the maintenance of discipline and morale in the police force itself. I think I shall be forgiven if I express the opinion that there can be very few civilised countries in the world where there is as little general instinctive respect for law and order at present as there is in Burma. I propose to read a few extracts in support of that opinion, but, before doing so, I would like to assure my friends opposite, if it is any comfort to them, that I am not reading this with the object of proposing that law and order should not be transferred. That is not my object. I want the British representatives here to have an opportunity of knowing the facts about the people's outlook on law and order, and I would like our Burmese friends to listen to this also as expressing the opinion of those who are used to judging these matters by Western standards.

U Ba Pe: What are you reading from?

Mr. Harp: I am going to read from the memoranda submitted by the Government of Burma to the Indian Statutory Commission. This is paragraph 47 of the first memorandum in this book. It is headed "Prevalence of Crime," and the paragraph says:—

"In crime, Burma has an unenviable reputation. The Report on the Administration of Criminal Justice for 1926 shows that the proportion of people brought before the Courts on criminal charges is one in a hundred."

Assuming that the Courts do not sit on Saturdays and Sundays, that means 560 new cases a day. The paragraph goes on:—

"A comparison of the average of other Provinces for the five years, 1921-25, proves that whereas in the rest of India 626 persons per million of the population are sent to jail every year, in Burma the ratio is as high as 1,640 in a million. On the basis of population the number of murders, dacoities, and

robberies in Burma is disproportionately high, and the percentage of prisoners convicted for theft is three-and-a-half times that of the rest of India. The number of murders in 1926 was 867 and in 1927, 825, and it was pointed out in the Annual Police Report for 1927 that, whereas the average annual number of murders in the whole of England and Scotland is 150, the Tharrawaddy District, with a population of less than half a million, was responsible in 1927 for 85, and the Pegu District, with a population of 446,628, for 54. In its comments on the murder statistics the Annual Police Report notes : ' The principal motives appear to be sexual passion and jealousy. Drink and gambling have only been responsible for a small number of cases. Entire lack of self-control is manifested in the majority.' "

Then further on the same paragraph says :—

" The Annual Police Reports draw attention to the lack of self-control engendered by the absence of parental discipline and by the decay of religious feeling ; and to the ' boredom of village life ' which induces the village youth to join a dacoit band ' at first with little criminal instinct but chiefly to add a little excitement to his humdrum village life.' The general apathy and indifference towards crime are also cited, and it is said that ' the lack of public opinion against crime and the tendency to assist the criminal and to thwart justice are much more marked in Upper Burma than in Lower Burma, and make detection and successful prosecution very difficult. The idolising of an outlaw who had murdered eight people, two of whom were women, and one a child of three, is significant of the attitude towards crime of a not inconsiderable portion of the population.' "

Those are the facts as set out in the memorandum of the Government of Burma, and the paragraph does not indicate very much instinctive respect for law and order. The point is : How are we going to get that respect for law and order. I think we can only come to one conclusion, the conclusion which has been come to by the Simon Commission, and that is that there will never be respect for law and order as such, until the people themselves are responsible for its maintenance.

As I say, we do not oppose the transfer of law and order. On the contrary, we want to put the responsibility on to the people and their representatives, and thus, I hope, build up this instinctive respect which has got to exist if the country is ever to be reasonably free from crime.

Mr. Foot and Lord Mersey just now stated their opinion that the ultimate responsibility for the tranquillity of the Province must rest with the Governor. I think that is not only indisputable, but these statements show that it may, and will in fact, sometimes have to be exercised. There will be nothing anomalous about it, and it need not in any way detract from the ideal of self-government. As I understand it, the primary responsibility is definitely going to be placed on the Ministers, but if the Governor considers that their action is such as to threaten the tranquillity of the Province, he will step in and take what course he considers necessary to see either that the wrong is remedied, or that the action proposed does not take place.

As to the question of the maintenance of discipline and morale, that is a very important question, and it would be very difficult to maintain that morale and discipline if political influence were allowed to interfere with the administration of the police. Postings, and such internal matters of discipline, must be kept free from politics. I will not say whether that should be maintained by way of convention or be placed in the Statute—perhaps it would not be possible to do the latter—but certainly matters of posting and discipline should be left, as far as possible, with the Chief Executive Officer—the Inspector-General of Police, or whoever it may be—of course under the general authority of the Minister. The Minister should, however, take the greatest care to see that no political influence is allowed to interfere with the proper administration of the police.

Tharrawaddy U Pu: But may it not be said that whatever is done by a politician is done by political influence?

Mr. Harper: Not necessarily at all. The Minister will run his department, but he will not allow influences which are not strictly administrative to govern the decisions of the Inspector-General or of himself or anybody else in matters of discipline and posting.

Tharrawaddy U Pu: But if the Minister would be reasonable, I think he would have no objection to keeping this matter in the hands of a reasonable Minister?

Mr. Harper: I hope he will be.

Tharrawaddy U Pu: Well, I think in that case you will have no objection, thank you.

U Su: My Lord, with regard to the Governor, I should like to express the feelings of the peasants and the masses of Burma. I have always been in contact with this class of people in Burma. As expressed by Major Graham Pole and Lord Mersey, they want the great amount of power to be reserved to the Governor; and to satisfy the masses of Burma, as they have expressed themselves many times to me when I have met them, they want the Governor to be elected by the people of Burma.

Mr. Isaac Foot: That may come later on.

U Ba Pe: Before I take part in the discussion I should like to put a few questions to Major Graham Pole and generally to the members of the British Delegation. Major Graham Pole read out a long list, practically covering the whole field of administration in Burma, leaving out Defence, External Relations, Excluded Areas, Currency and Coinage. This is my impression, that according to what he said, practically the rest are to be transferred entirely to the popular control. I should like to know in the first place whether that is the case, because if that is the case, the position of the Governor will be entirely different to what it would be if there are other subjects to be reserved to him.

Mr. Isaac Foot: Beyond those, you mean?

U Ba Pe: Yes.

Major Graham Pole: I have given the complete list as far as I understand it. My impression is that these are the only ones.

Tharrawaddy U Pu: Why not allow us to know the views of others? The list may not be as exhaustive as that of other members of the British Delegation.

Major Graham Pole: Shall I read the list, and may I ask to be corrected if it is not exhaustive, or if anyone has anything else to suggest that should be included in that list that I do not include?

U Ba Pe: Would it not be better, if you simply picked out the departments that are to be wholly reserved to the Governor first?

Major Graham Pole: Yes. The Departments to be wholly reserved to the Governor are Defence, External Affairs, Excluded Areas, Monetary Policy, Currency and Coinage, Ceremonial Titles and Honours.

Chairman: I think it is so far as the general credit of Burma might be affected.

Major Graham Pole: That is so, in connection with these matters of Monetary Policy, Currency and Coinage, as the Chairman has said Ecclesiastical administration, official personnel recruited or appointed from time to time by the King.

Chairman: Well, I think it is obvious that the Governor would have to have some assistance in these reserved subjects.

Major Graham Pole: Appointed by the King or by the Secretary of State.

Mr. Isaac Foot: Or the subjects administered by the Governor.

Major Graham Pole: That is the complete list; but he would have overriding powers, I assume, in matters for which he has a direct personal responsibility—for instance, the protection of minorities, the preservation of Burma against grave internal peril, the protection of the rights of these officers appointed by the King or the Secretary of State to whom I have referred, and any other matters affecting these subjects reserved to him, and, in case it was necessary, to safeguard any Imperial interest.

Mr. Howison: The Public Services Commission?

Major Graham Pole: And for the safeguarding of the financial stability and credit of Burma and the fulfilment of debt obligations.

Tharrawaddy U Pu: Would not that be covered, by those heads of Monetary Policy, Coinage, Currency, Finance, and so on?

Major Graham Pole: Well, it may be covered by that, but if you want it to be exhaustive, you are having it exhaustive.

Tharrawaddy U Pu: All right.

Major Graham Pole: And if any question arose as to whether a matter did or did not affect the discharge of his responsibility under any of these heads he would have to decide, and his decision would have to be final.

Chairman: May I give an example to make it a little clearer on one point. I will not deal with it in Burma, but I will deal with it, if you like, from the Indian point of view, because we discussed it, of course, very thoroughly; that is, the question of the ultimate responsibility of the Governor for law and order. I will take the duties, we will say, of the Viceroy of India in that connection, and

I take that specially because I think I have in my head the figures. The first people, or course, on whom the duty of preserving law and order rests are the people in the Provinces, and Police, as you know, is, in India, a Provincial subject. I think I am right in saying that there are about 180,000 police in India. Now, compared certainly with this country, that is a very small body indeed. Unfortunately, as we all know, when things get rather troublesome you have to call in the soldiers to assist the police. It is admitted, I think—certainly it is in the case of India—that that would have to be for the present under the control of the Governor-General. He has to be responsible for the movement of the troops and for the assistance given to the police. It is quite obvious, therefore, that from the mere fact that the military are a kind of final reserve of law and order to support the police, that this ultimate duty to use them as a reserve for law and order must be vested in the person who is responsible for the Army. I want to give that as a kind of example of powers that must be reserved, I think, to the Governor by virtue of his office. That is one case.

U Ba Pe: There is another question and that is External Relations. In the list read out by Major Graham Pole one of the things was commerce, including banking and insurance. I want to know whether this would include the appointment of trade agents and the making of commercial treaties say between Burma and India—not political treaties but simply commercial and trading agreements.

Chairman: Some of these questions admittedly raise difficult points. I should say, speaking off-hand, that of course the Minister in charge of commerce and trade and so on, obviously must have a great deal to say in commercial treaties, but commercial treaties often have another side. They often have what I may call a Foreign Office side as well as a business side. We get into a good many difficulties in this country in administrative matters of that kind. For instance the Overseas Trade Department of the Board of Trade and the Foreign Office are sometimes both concerned in a particular matter. The Governor, therefore, would clearly come in if matters of what I may call foreign policy are involved though I have no doubt that in the arrangement of the actual business side the Minister would have a good deal to say. It is rather difficult without having a specific case to make a clear statement of the demarcation of functions between the two. These trade matters often have a double face.

U Ba Pe: Whoever is in charge of External Affairs would I suppose be concerned with political matters. That is one thing. But there is another thing and that is the relationship between the Government and say the Indian States of India. That might be a political matter coming under the head of External Affairs but then we should also have purely trade matters. For instance we should like to promote Burmese trade, especially in rice. To do that we should like to have our agents in some other countries. How are we to deal with that trade aspect which has nothing to do with politics?

Chairman: The two things are often closely connected. As you no doubt know negotiations are now going on between us and another great country, a neighbour of ours. One aspect of those negotiations is commercial, but the matter is not purely commercial and the Foreign Office which has to deal with External Affairs comes in as well. That

is inevitably, I think, one of those mixed subjects on which there will no doubt be consultation.

Mr. Isaac Foot: In the Fourth Report of the Federal Structure Committee, paragraph 11, headed " External Relations " bears out what you have just said:—

" There is, however, a difficulty in connection with External Relations which hardly arises in the case of Defence, *viz.*, that of defining the content of the subject. The reserved subject of External Relations would be confined primarily to the subject of political relations with countries external to India and relations with the frontier tracts. Commercial, economic and other relations would fall primarily within the purview of the Legislature and of Ministers responsible thereto; in so far, however, as questions of the latter character might react on political questions, a special responsibility will devolve upon the Governor-General to secure that they are so handled as not to conflict with his responsibility for the control of external relations. . . . "

Chairman: I think that bears out, in more formal language, what I have just said. The same point arises about customs. There, again, it is primarily a matter for the Finance Minister, coupled with the Trade Minister, as regards the effect on trade in the country, and as regards the necessity of raising revenue. On the other hand, as most countries know very well, the question of customs becomes a Foreign Office question, and a matter of negotiation between the countries. I do not think you can get away from it that the question has this double aspect, and the Governor must have some control in order to exercise that authority which devolves upon him as being in charge of foreign relations.

U Ba Pe: Quite so, the Governor must be in charge, but who will be in immediate charge of the subject?

Chairman: The Minister will be in charge of trade, of course.

U Ba Pe: This will include not only commerce but banking, etc. We shall have to put in " trade, etc." otherwise it will come under External Affairs.

Chairman: Will it not be rather what you call a mixed subject, like the matter of the appointment of Consuls and all that kind of thing, which is partly for the Foreign Office?

Mr. Isaac Foot: As regards Finance there is an apposite quotation in paragraph 18 of the Prime Minister's statement to the Round Table Conference in January last, which was discussed in the House of Commons on January 26th. I am quoting now from the Prime Minister's statement at the conclusion of the discussion:—

" As regards Finance, the transfer of financial responsibility must necessarily be subject to such conditions as will ensure the fulfilment of the obligations incurred under the authority of the Secretary of State. The Report of the Federal Structure Committee indicates some ways of dealing with this subject, including the Reserve Bank, the service of loans, and exchange policy, which, in the view of His Majesty's Government, will have to be provided for somehow in the new Constitution. It is of vital interest to all parties in India to accept these provisions, to maintain financial

confidence. Subject to these provisions the Indian Government would have full financial responsibility for the methods of raising revenue and for the control of expenditure on non-reserved services.

" This will mean that under existing conditions the Central Legislature and Executive will have some features of dualism which will have to be fitted into the constitutional structure."

Then, if I may quote the next paragraph, I think it has some bearing;

" The provision of reserved powers is necessary in the circumstances, and some such reservation has indeed been incidental to the development of most free Constitutions. But every care must be taken to prevent conditions arising which will necessitate their use. It is, for instance, undesirable that Ministers should trust to the special powers of the Governor-General as a means of avoiding responsibilities which are properly their own, thus defeating the development of responsible Government by bringing into use powers meant to lie in reserve and in the background. Let there be no mistake about that."

Major Graham Pole: If I may say so, My Lord, in answer to U Ba Pe, in the list of the Governor's reserved powers that I have read out, I also pointed out that the Governor would be empowered to decide finally whether any matter did or did not fall within the heads specified, and I pointed that out in matters affecting these subjects, one of which was External Affairs. So that in matters affecting External Affairs he would have to decide whether it came within External Affairs or not.

Chairman: Do you want to ask any more questions, U Ba Pe?

U Ba Pe: No, My Lord.

U Ba Si: My Lord, I understood that this subject was to be taken up on Monday, and today has been fixed only for the subject of Ministers. That is why some of us here are not quite prepared for it; but some general observations have been made about crime in Burma; so, before we go into details as to the safeguards or reservations, I should like to make some observations in reply to what Mr. Harper has said just now.

My Lord, with the annexation of the country, the country was opened out to all foreign influences without restrictions. The country was flooded by foreign forces; all sorts of vices were brought into the country. The people of the country were taken by surprise; they were not ready. At the same time, for the purpose of revenue, liquor and opium shops were opened throughout the length and breadth of the country. The people of the country naturally got demoralised, and poverty and crime increased.

If we look to the other side, that is the side of education, though I am unable to give you very correct figures, as far as I remember up to 1895 the expenditure on education was only 2 per cent. of the whole revenue, and for the next ten years up to 1905 the expenditure on education was increased only to 5 per cent. Of course I am open to correction, but as near as possible and as far as I remember that is how the country has been administered. Things went from bad to worse. I remember, in my younger days that in very big pagoda

festivals, or other such religious festivals, where tens of thousands of people went, I would not see any person under the influence of liquor. They were very well organised; the elders had very good control over their people. Now, if you go to any festival like that, you will see hundreds of people under the influence of liquor.

Major Graham Pole: You do not suggest that that is because of the spread of education?

U Ba Si: There are two sides to the question. I am explaining how our society has broken down altogether. Of course, it will have to be built up again. That is why responsible government is all the more necessary.

Mr. Isaac Foot: But there is no difference upon that, is there—that the responsibility in relation to law and order for the evils that have grown up must pass to the Ministers?

U Ba Si: Yes, must pass to responsible Ministers. When the list of the crimes is read out one is inclined to imagine that the Burmese are very criminally-minded people, but I am explaining that the Burmese are not responsible for the increase of crime. In a place like Rangoon the number of Burman criminals is very small.

Chairman: And the number of another race is very large!

U Ba Si: They are mostly Indians and Chinese in Rangoon. Just allow me to read an admission made by the Government on the same point. The Government says that it—

“accepts the view of the Committee that the root of the evil is to be found in the economic, political and social upheaval and unrest which have followed the war.”

Of course, there are a lot of things to say on the educational system. I need not go into the detailed remarks made in certain reports, My Lord; my object here is just to clear the atmosphere, because we wish to go into the details of the subject before us with a good conscience and goodwill on all sides.

Chairman: Quite. The question before us is really the question of transfer of law and order in connection with that, and whether certain reserved powers should rest, in the final resort, in the hands of the Governor. That is really the question we are on. The question of whether there is more crime in Burma than somewhere else is really not very relevant to the actual discussion, I think.

U Ba Si: Since Mr. Harper has raised the matter I just wanted to say that by way of reply.

Mr. Harper: I quoted the paragraph simply to show what a difficult job the new Government have in front of them.

U Tharrawaddy Maung Maung: Mr. Harper said he wanted to point out the difficulty of transferring the subject of law and order.

Mr. Harper: The difficult work they have in front of them.

U Tharrawaddy Maung Maung: Then I have nothing to say.

Sir O. de Glanville: In view of what was said by one of my friends on my right perhaps I might put forward my views. I think it is agreed that they are not going to speak on the subject themselves today.

Chairman: Oh no! I do not think that is the position.

Sir O. de Glanville: Then, My Lord, it seems to me that as we have with us the possible Ministers of the future and the possible Opposition of the future, that it is for them, as they are going to undertake responsibility, to give us some indication of the safe-guards which they suggest.

U Ba Pe: Why do you not give us your opinion? Why wait for us?

Sir O. de Glanville: I understood that they wanted to wait until Monday to do so.

Chairman: I do not think so, Sir Oscar. I think they are ready to discuss it, but if you wish to say anything please do so.

Sir O. de Glanville: No. I do not wish to do it until I have heard them.

U Ba Pe: In that case I will make some general observations on the subject. I do not propose to go into details. A formidable list was read out by my friend Major Graham Pole of subjects to be transferred but he left out eight or nine departments from the list. As far as those subjects, which are to be transferred to popular control are concerned, with the Ministry having joint responsibility, I need not say much just now. You have stated that the activities of the Legislature should cover the whole field of subjects.

Chairman: With certain reservations, of course.

U Ba Pe: I mean with certain safeguards and reservations. I am just wondering in that connection how you are going to keep touch between the popular side and the reserved side. Certain subjects are to be reserved and kept under the control of the Governor during the transitional period. The idea of reserving those departments is either, that Burma has not the facilities at present for shouldering the whole responsibility, or else there must be some other difficulty in the way of transferring these departments at the very start. Whatever the cause, these departments will, for some time, remain under the charge of the Governor. Now the people of the country are very willing and very anxious that those departments should be transferred to them in due course, but how are you going to arrange that the people should not only take an interest in the matter, but should get actual day-to-day experience with the subject so that they should be in a position to shoulder responsibility without loss of time? That point was not touched upon by Major Graham Pole at all, and I should like to hear, especially from the members of the British Delegation, how they propose to affect the training of the people in those departments that will be reserved during the transitional period to the Governor. Generally speaking, I am rather in agreement with the powers suggested by the Federal Structure Committee in their Second Report.

I am quoting from the Report of the Federal Structure Committee at page 278 of the volume of Indian Round Table Conference Reports (proceedings of sub-Committees, Part I). There you will find the Governor-General's ordinary powers set out in paragraph 21. I am in agreement with that paragraph, and with the special powers, which are given in paragraph 16.

Chairman: And there is paragraph 22, " Bills affecting religion and commercial discrimination " ?

U Ba Pe: Quite so.

Lord Lothian: And paragraph 16?

U Ba Pe: Yes, paragraph 16, that relates to the special powers. Perhaps I had better read that paragraph:—

“ With regard to subjects in the administration of which a Governor-General would normally act on the advice of his Ministers, it was generally agreed that arrangements must be made whereby in the last resort the peace and tranquillity of any part of the country must be secured, serious prejudice to the interests of any section of the population must be avoided, and members of the Public Services must be secured in any rights guaranteed to them by the Constitution. It was further agreed that*for these purposes the Governor-General must be empowered to act in responsibility to Parliament and to implement his decisions if occasion so demands by requiring appropriation of revenue to be made, or by legislative enactment.”

These are the points, I think, which Major Graham Pole raised when he said that the ultimate authority must be vested in the Governor for emergency purposes. I am in agreement with that, but if the powers are resorted to by the Governor often, then the whole Constitution will be a sham, and not a real responsibility. But I am sure that the Governor will not resort to these powers or do so without reference to the Cabinet. In this connection, of course, it depends very much upon the type of Governor who is selected for the post, and in Burma there is a general idea that the new Governor who is to inaugurate the Reforms should be one who has a wide parliamentary experience, so that he can liberally interpret the Constitution, and also guide the Cabinet there with a view to its gaining experience and acquiring the necessary responsibility without loss of time.

Lord Mersey: May I just read to *U Ba Pe* on that particular point Command Paper 3772; that is the Indian Round Table Conference, November, 1930-January 1931, the sub-Committees' Reports and the Prime Minister's statement. Page 19, paragraph 17:—

“ Use of the Governor-General's special powers.—Stress was laid in some quarters of the sub-Committee on the necessity of so defining the use of these powers that they should not be brought into play, in derogation of the responsibility of Ministers, for the purpose of day-to-day administration. It is obvious that the Governor-General would consider his relations with his Ministers and the Legislature before making use of these powers. He will have every inducement to stay his hand as long as possible and to be slow to use his own powers in such a way as to enable his Ministers to cast upon him a responsibility which is properly theirs.”

U Ba Pe: That is exactly what was in my mind.

Chairman: Yes, I think that is very clearly stated, is it not?

U Ba Pe: Yes.

Major Graham Pole: Everyone is agreed on that, I think.

Mr. Isaac Foot: And on education, *U Ba Pe*, would it not be possible—I only put it by way of question to you—that the discussion should take place in the Legislature on the subjects with which the Governor himself may be concerned, subject only to his veto against

any discussion that would be against those interests. That would be possible, would it not—and also an Army Advisory Council?

U Ba Pe: I do not know, Sir. The arrangement in the Indian Legislative Assembly, as far as I know the procedure there, is this: Every year the Governor-General's permission has to be obtained as to whether these matters can be discussed in the Assembly. In fact that is the very point I want to know. What arrangements are going to be made to enable the representatives of the people in the Assembly to be in day-to-day touch with matters reserved to the Governor for the time being? One of the suggestions made is to have Indians in charge of those particular Departments to be present in the Council, and that non-officials may be members of the Cabinet, but while these members will be taking part in the Cabinet discussions and so on, over other subjects which are not reserved to the Governor, they will be liable to be thrown out of office if there is a vote of "no-confidence" in the whole Ministry; but if the vote of "no-confidence" applies to the Department reserved to the Governor, then they need not go out. The member who is in charge of those Departments appointed by the Governor is responsible to the Governor only. That is one method suggested there. There is another method. That method is of course more like the dyarchical form where the members will be separate from the Cabinet. Either they can be in the Legislature or outside it and called in only to explain at a time when explanation is necessary on behalf of the Governor. That would cut it entirely in two, and the only touch the members in the Legislature will have with the outside world will be when occasionally that particular officer is sent by the Governor to the Legislature to explain matters. I say I do not like this. There is a third method which is not mentioned there, which occurs to me, and which I should like the members of the British Delegation to consider. I do not know whether it will be acceptable, but anyhow I will explain my method. Under my method there will be no reserved or transferred subjects; they will be all subject to the control of the Legislature ordinarily; but as to matters like Defence, External Affairs and so on, the subject matter can be discussed in the Assembly, but it should not be the subject of "confidence" or "no-confidence." It is only for the purpose of education. The member in charge will, for that purpose, not be responsible to the Legislature, but he will have the day-to-day administration in touch, so that he will be getting the training, and the members of the Legislature, also, will take a live interest in the matter. The Governor will be watching the proceedings, and whenever he thinks the Assembly or the member in charge has exceeded the limit he can always come and stop it, because, in the last resort, the power will be in his hands. By allowing the discussion to go on from year to year the members will learn the responsible nature of their work and the Governor can reduce his control by not using certain powers. In this way, within a few years the Legislature will learn how to tackle these subjects. I do not know whether that will be acceptable to the Government, but I throw out that suggestion for your serious consideration.

Mr. Harper: *U Ba Pe* has suggested that on these reserved subjects there should be just general discussion, I understand—or does he suggest that they should go further and introduce resolutions?

U Ba Pe : I will explain. The other day I tried to explain this. There will be two sides. On one side there will be no necessity to prevent the members of the Legislature taking part in the discussion. The Governor will formulate a policy. Take the Burmanisation of the Army. In the actual execution of that, the technical side, the actual control and so on, the use of the Army and so on, the Assembly will have no say. That will be purely for the Governor to decide. A few minutes back the Chairman gave you a very good illustration. Law and Order will be a transferred subject, but there may arise an eventuality when the Police alone will not be able to cope with the situation. In that case the military will have to be called in, but the actual use of the military should not rest with the Ministry at all; it will rest on the Governor. It will be for the Governor to decide whether he will help the Police by the use of the military. The Minister can ask for assistance, but the Governor need not give it. The Minister would not have the right to say the military must come in; that is for the Governor to decide. So you can have a distinction. I do not know whether it is possible to distinguish everywhere, but I think that, with a liberal-minded Governor and a willing Cabinet, all these things can be arranged without any friction, and I do believe that this method will promote the earlier attainment of full responsible government and by not keeping the departments separate, outside the purview of the Legislature altogether.

Lord Mersey : I would just like to ask one question on that. Who would appoint these Ministers?

U Ba Pe : The Governor.

Lord Mersey : Not the Cabinet.

U Ba Pe : The final appointment of those members in charge of reserved subjects—there will be one or two of them—will be through the Governor on the recommendation of the Cabinet, but the Governor is not bound to accept the recommendation for those particular posts. In other words, the Governor will try to appoint men who can work with the Cabinet.

Chairman : Yes. Do you not think that that arrangement—I have listened with great interest to your suggestion—would be apt to blur the full responsibility of the Governor? In the one case, the Governor would himself be responsible for the administration of these two departments, would know all about it, and he would no doubt have officials to assist him, but they would not be in the nature of Ministers, but heads of departments, officials, and so on. If you appointed people who were called Ministers, and who in the eye of the public would not, I think, be distinguishable—because you do not expect the public to distinguish between Ministers who are responsible to the Legislature and Ministers who appear to be responsible to the Legislature, because they express certain opinions and because they lead in debates, but who really are responsible to the Governor—it seems to me that it would be rather difficult, would it not?

U Ba Pe : It would be very anomalous.

Chairman : I do not mind anomalies a bit. But would not the public be rather deceived if there were Ministers who appeared to be Ministers in every way, meeting the Cabinet, discussing these matters

freely in the Legislature and so on, and yet with a very serious discrepancy between them and other Ministers. It seems to me that you would be apt to blur responsibility in two ways. Although they would be Ministers in the public mind, and would be fixed in the public mind with responsibility, they would not really be directly responsible. The Governor, on the other hand, would be to some extent hampered or, at any rate, his responsibility would not be so clear. It would not be fully realised that he was responsible for a department because he would have people round him who, to outward appearances, were exactly the same as other Ministers. I just make that criticism.

U Ba Pe: We are thinking of the transitional period only. In the transitional period there will be some anomalies. We cannot get away from that because in these particular departments it is not possible to effect complete transfer. People will know that. As soon as the Constitution is known to the country the people will see at once up to what stage there is real responsibility, and at what stage the Governor comes in, and so on. We need not fear that the public will misunderstand the position. What we have to be careful about is, not so much misunderstanding on the part of the public, but the educating of the public on one point, namely, that these anomalies arise simply because there is no possibility of transferring the whole responsibility at present. The idea is to gradually transfer responsibility. That means giving people in day-to-day administration an inner knowledge of the department with a view to transfer later on. The Governor, I take it, will be very strict at the start, but as the members concerned gain experience, he will relax his control gradually so that though the powers may remain in his hands, he will not exercise them. That would be a gradual transfer of responsibility in these departments by gradually training the people. That idea appeals to us very much, and I throw it out for the consideration of the Government.

I have in my mind another word used in your statement. That word is the word "growth." I do not want a Constitution that needs periodical revision. If possible, I want a Constitution that will grow of itself to the full strength without recourse to periodical revision. The suggestion which I have made answers very well to this idea, because the idea there is not for periodical revision, but for the Governor by not using certain powers which he possesses to allow responsibility to grow in the hands of the Ministers. In actual practice the member concerned will shoulder more responsibility and the Governor will lessen his control in that particular department. I think I need not go further into details, and I will content myself with those general observations.

U Ni: Your Lordship and others will know that I have definite views touching especially this question of the appointment of the Minister. The main point is that during the transition period we want to learn to train ourselves in the most effective manner in order that, when the time comes, we may have in Burma, men ready and able to take up these subjects. The question is as to how these subjects should be administered by the Governor while, at the same time, giving us that education which we must have if it is considered that the time will come when we, ourselves, will have to shoulder these subjects. I have considered the seeming disadvantages of the method just now enunciated by my friend, *U Ba Pe*, but, considering

the whole matter, I believe that the disadvantages would be very much outweighed by the advantages which would otherwise be gained.

Chairman : You mean that you rather agree with what U Ba Pe has said?

U Ni : Yes, to a large extent. I have also expressed much the same views in the earlier part of the discussions to-day, but I have not gone so far. We will leave the whole power of choosing these non-official Ministers to the Governor. He may choose anyone he likes. But the satisfactory thing is that in the end we shall have someone in our country with the necessary training and experience; at present, we are confronted by the fact that we have no one who can handle this situation at once. This matter in its relation to India was also discussed at the Indian Round Table Conference, and there was brought forward, what I may call the " Sapru " method. The only point on which it differed from the method just brought forward, is that according to Sir Tej Bahadur Sapru, one of the Ministers in the Cabinet was responsible to the Governor, but he would rise and fall with the Cabinet, and would have to go out if the Cabinet went out.

Chairman : Sir Tej Bahadur Sapru made a very ingenious suggestion, but it was open rather to the charge of being disingenuous because, while the whole Cabinet went out together, the people who were responsible to the Governor could immediately be reappointed into the next Cabinet. I think the Burmese are rather a humorous people, and that procedure would strike them as funny.

U Ni : Sir Tej Bahadur Sapru saw the difficulty, and described the position as really anomalous. He said that he would not really like to face that situation, but as things were it was impossible to avoid it. There is not very much to choose between the two methods, but I would suggest that the method we have just now enunciated is to be preferred.

Lord Mersey : Would this gentleman sit in each Cabinet then? Would he know all the secrets of the right-hand party and the left-hand party?

U Ni : Well, I do not think it will be very necessary, because, after all, as a matter of fact, in reality he is responsible to the Governor.

Lord Mersey : No; but in other matters he would sit with the Cabinet. He would hear a good many things, would he not?

Tharrawaddy U Pu : No, not necessarily.

U Ni : It is not necessary with all, because we have had this method of working to some extent even at present. There are two Councillors, two Ministers responsible to the Governor who are supposed to be responsible to the Legislature at present. They have been working to a certain extent conjointly. That is how they have been trying to make this dyarchy a success, and so on.

Chairman : Shall we call it dualism? It is rather a nicer word, and then we get rid of the old associations.

U Ni : It is really dualism. So long as one or two Ministers are responsible to the Governor, during the transitional period, we find that the responsibility must be in the hands of the Governor. It is only in order to give training and qualify us during that period, that we have to adopt that method.

Chairman : Yes. There is another system, is there not? that the Governor is responsible for those two Departments, and he deals with them, of course, through officials who do the regular work. On the other hand, the Ministers do their work and carry on the Government. As you say, there is a connection between the administration and different Departments. Government is a unity in one sense. Now the Governor, who, of course, has the right of presiding if he desires over the Cabinet, if he feels that certain subjects can be discussed or should be discussed together, can always, if he wishes, call a Cabinet, and either himself discuss these problems with the Cabinet, or bring in these officials—two or three it may be—to discuss these problems with him. That is another way of doing it, is it not, because in that sense you lessen I think the amount of dualism or dyarchy, whichever you call it. You enable these subjects to be discussed where they touch on these other subjects managed by the Ministers, and the Ministers get that experience and education; but you do not suggest to the public that all these people are the same. As I was saying just now, you do in that way, to some extent, make clear the distinction of responsibility between the Governor and the Ministers. I think that is another way of doing it which I am only suggesting to you. I quite appreciate the scheme with which you are dealing.

U Ni : That is quite possible. That only difference I think would be that, instead of these Ministers coming in only during the Cabinet meetings, according to the method just now proposed by Your Lordship, they will come in only when the Governor holds a Cabinet meeting.

Chairman : Well, when he calls them together.

U Ni : Yes, when he calls them together.

Chairman : Because, of course, in many cases the Cabinet would be sitting by itself and not with these other two men.

U Ni : And I consider that according to the method just now proposed they also would take their seats in the Council. I take it that they would not limit their time to the Cabinet meetings, but they would also sit in the Council.

Chairman : Do you mean in the Assembly?

U Ni : In the Assembly.

Chairman : Do you want them to sit there always or only when it is thought necessary that they should explain policy or make a statement and so on?

U Ni : That is a point with which I have been trying to deal. I would not like them to be kept out of the Council.

Mr. Ohn Ghine : Who?

U Ni : These non-official Ministers who are responsible to the Governor. I would not keep them out of the Council and make their appearance only at the time when they were summoned by the Governor to come into the Cabinet meeting. I would let them appear in the Council, let them gain the experience which other Councillors and Ministers would gain from all the questions put. After all, there is not much difference, I think, in reality, between the method proposed and that which has been proposed just now by My Lord Chairman.

Tharrawaddy U Pu : I am glad that U Ba Pe has put before the Conference the new method, which may be called his method, and that

is the type of legislature in which, according to him, all subjects without any reservation should be placed before it for discussion by the Legislature, the Governor to exercise his right of veto as much as he likes on matters which are reserved to him and to him alone. That is a new method to which I cannot commit myself, but it is a very important one which deserves careful consideration, not by the members of the British Delegation alone, as he said, but by the whole Conference.

Chairman : You do not recommend it yourself, you say?

Tharrawaddy U Pu : Not yet ; I want to commend it to the consideration of all the other Delegates. My friend, of course, I take it as a slip of the tongue, simply asked the members of the British Delegation to be pleased to consider this new subject. I would commend it now to all the members at this table.

Dr. Thein Maung : That is understood.

Tharrawaddy U Pu : Yes, that is understood ; but I say it ; that is all. First of all, I submit that the Government would not be giving us more than they had probably intended to do. The Government would be allowing us to have our say on all matters concerning the administration of Burma ; we would discuss and decide what should be done on the matters concerning the reserved subjects, and then we would send up a resolution passed by the Legislature before the Governor of the Province, and the Governor would be at liberty to do what he thought fit in respect of those reserved subjects. I think by that means, the Governor would be supplied with the considered opinions of the representatives of the people of Burma, and not only with the advice of what you may call his official Burman Ministers. That is what we want—not an officer of the Service ; we want a Minister, who must be a Burmese non-official, to be kept in charge of those reserved subjects or matters. So by these means, if he would decide in accordance with the decision of the Legislature he would be very much fortified by the opinion of the people of Burma expressed through the Legislature on a vital question.

Again, My Lord, the second part is about the growth. We were told that the constitution which we are going to have is one which should be capable of growing by itself without coming back to the British Parliament for amendment or for making another constitution for us in course of time. I do not understand, My Lord, how we are to grow ourselves. I would like to be enlightened on this subject.

Personally, I would suggest that as time goes on we must be enabled to grow without the intervention of the Governor. For instance, to put a concrete case before Your Lordship, I think I suggested the other day that the Army should not be transferred to us within five years. Suppose, by a piece of good luck, we should be able to build up a national Army within three years. We should hold our meetings and pass resolutions to the effect that we had now come to the stage when we could take over the Army. We would consider the matter, the pros and cons would be thrashed out on the floor of the Legislature, and a resolution might be passed to the effect that we desired control of the Army. The resolution would go to His Excellency the Governor or the Governor-General of Burma, and we expect that the Governor or the Governor-General would not stand in our way. We take it that the growth of the Constitution

should not be obstructed by the action of the Governor. As we are the people's representatives we should decide. There has been some talk of the Governor deciding the growth of the people of Burma. I for one oppose such a suggestion. I do not think the Governor should be the deciding power in this matter.

My friend Mr. Harper dwelt on the question of the increase of crime and said there was a large amount of crime in Burma. In the Report of the Government of Burma to the Statutory Commission there are figures mentioned. Those figures no doubt look very alarming, but to us, who live in Burma, we know that there was a big volume of crime during recent years. That crime has increased since the introduction of dyarchy—we call it wretched dyarchy. It is the reason, I am sure, that crime has increased during the last ten years or so. My friend Mr. Harper has been a resident of Burma, I take it, for some time now, for the last seven years I think; but I wonder if he has travelled throughout the length and breadth of the Province, not only to the big towns, but also to the villages. I want him to remember the life of a Burman villager. If he does know what life in a Burman village means, he will realise how poor the people are. They have been reduced almost to poverty, so that one cannot be surprised at certain amount of crime committed by these poverty-stricken people in the villages. These are salient facts which I am sure no member of this Conference would deny.

Then there is a capitation tax to be paid; it is paid by the entire population of Burma, without excepting the minorities. They have been clamouring for the abolition of this capitation tax, which only amounts to one crore of rupees a year, but the clamour has fallen on deaf ears. Resolutions for the abolition of the capitation tax have been moved, and at long last, some months ago, have been carried unanimously, but the Government has remained unyielding. A crore of rupees is not much for the Government to gather in, but when the time comes for the collection of the capitation-tax it finds the people too poor to pay it, with the result that they become discontented, and with a discontented people there is naturally an increase of crime. That applies to every country, and not only to Burma.

Moreover, the people have been clamouring for responsible government—for Home Rule, as they prefer to call it, and the Government have not taken sufficient heed of their demand for that also. The result is again that these people have become discontented, and, as I have said, naturally when a people become discontented, they resort to crime. It is for this reason that one finds the increase of crime to which my friend Mr. Harper has drawn attention.

Again, the paddy price has come down.

Chairman : I do not think you can expect this Conference to discuss the paddy price.

Tharrawaddy U Pu : I was only citing it, My Lord, as an example of the poverty of the people. The consequence is that there has been looting in the bazaars. For all these reasons you must expect an increase of crime in Burma. I am only asking you not to get alarmed. It would be very easy to remove all these troubles from the minds of the people. You have only to give us full responsible government for which we are clamouring, and to stop the exploitation by foreigners as much as possible, and then there will be contentment in Burma and crime will be reduced appreciably.

Mr. Howison: My Lord, in this discussion on the powers of the Governor I only wish to speak on one point. That is the protection of minorities, with which is associated the question of what has been known in the Indian Round Table Conference discussions as Commercial Discrimination. I do not think it will be necessary to have any lengthy discussion on this point, because I was very glad to hear from U Ba Pe in an earlier discussion on the question of minority representation that he fully admitted the necessity for a clause or clauses in the Constitution safeguarding the rights of minorities and special interests. But I presume that, in order to see that these rights are safeguarded, the Governor will have to be accorded special powers, and the duty will definitely have to be laid upon him to see that the principles set out in that particular clause in the Constitution are given effect to.

I think I cannot do better here than refer to the Fourth Report presented by the Federal Structure Committee to the Conference which gives the conclusions of that Committee as to the general lines on which minority rights, both in regard to the ordinary affairs of life and commercial activities, should be treated. Paragraph 18 of the Report, embodied in the paper R.T.C. 22, which has been supplied to us, reads as follows:—

“ The Committee are of opinion that no subject of the Crown who may be ordinarily resident or carrying on trade or business in British India, should be subjected to any disability or discrimination, legislative or administrative, by reason of his race, descent, religion, or place of birth, in respect of taxation, the holding of property, the carrying on of any profession, trade or business, or in respect of residence or travel. The expression “ subject ” must here be understood as including firms, companies and corporations carrying on business within the area of the Federation as well as private individuals.”

Now these are the principles that we wish to see safeguarded in the Constitution, and we wish to see that the Governor is given full power to ensure that these provisions are carried out. As to how this will be achieved I do not think I can offer any detailed suggestions; it will be a matter of drafting the Act in such a way as to ensure that the fullest possible effect is given to these principles.

I would like further to take up a point which does not appear to be covered in the paragraph which I read, namely, the right of entry into Burma. I want it to be quite clear that, speaking on behalf of the British community, we claim the right to enter and trade in Burma in the future as we have had it in the past.

There is only one other point—the question of property rights which is dealt with in paragraph 26 of the same Report. I do not know if this comes directly under the question of Governor's powers, but while on this subject of commercial discrimination I just wish to touch briefly on this particular question. The paragraph to which I have referred clearly protects property rights and provides that compensation should be paid when any person is deprived of his property for public purposes. Well, not being a legal expert, I do not know exactly what is covered by the expression “ property, ” but I can imagine circumstances in which businesses might be acquired for public purposes in the form, we will say, of nationalisation, when no property actually would be acquired but when, in my opinion, compensation

would rightly be due. If I might illustrate what I mean, assuming there was an industry in Burma, shall we say, of making umbrellas, and there were six factories employed in that particular industry, it might be possible for the Government to nationalise that industry but only to acquire, say, three of these factories, in which case the owners of the other three factories would have no claim to compensation, so far as I can see, under the present clause, because their property had not been taken over. I just wish to mention this point in passing.

(The Committee adjourned at 5-10 p.m.)

Proceedings of the Eleventh Meeting of the Committee of the Whole Conference, held on Monday, the 21st December, 1931, at 11-30 a.m.

HEAD 12.

THE GOVERNOR—(continued).

Mr. Haji : My Lord, with regard to the position of the Governor, I have not really much to add to what has already been stated, except perhaps to make a few general observations indicating the nature of the safeguards, the administration of which it will be, so to speak, the duty of the Governor to undertake. I think that in this Conference, we are in the happy position of finding ourselves more or less in agreement in the view that in the Constitution there should be safeguarding of minority rights and special interests. That, I take it, has been admitted on all hands. If that is so, one does not need, as was necessary elsewhere, to justify that position. Therefore, I come directly to the safeguards which in my opinion are absolutely essential. They should be guaranteed by Statute, and the working should under the control of the Governor. In cases where it is necessary to appeal to a higher tribunal than that provided by the Governor, the appeal should lie, in my view, to the Privy Council in London.

I may elaborate that point a little later, but in the meantime I will start off with the fundamental safeguards. The first of these is that all inhabitants are entitled to full and complete protection of life and labour, without distinction of birth, race, language, or religion. Secondly, all inhabitants shall be entitled to the free exercise, whether public or private, of any religion or belief whose practices are not inconsistent with public order. Thirdly, all inhabitants shall be equal before the law and shall enjoy the same civil and political rights, as, for instance, admission to public employment, functions and honours, exercise of professions, ownership of land and property, participation in industrial and commercial undertakings, all these without distinction as to race, language, or religion.

I come next to the following : no person shall be under any disability for admission into or be promoted or be superseded in any branch of the Public Services merely by reason of his race, language, or religion.

Chairman : Just to make me clear about this, are these general propositions to which you wish the assent of the Conference, or suggestions that you want inserted in the Governor's instructions?

Mr. Haji : These are the safeguards which should really be, not in the Instrument of Instructions, but should be part of the Constitution, as is the case with similar safeguards in other constitutions.

Chairman : You want them to be part of the Statute?

Mr. Haji : Yes.

Lord Lothian : They are declarations of fundamental rights?

Mr. Haji : In that sense, yes. I am concerned at the moment with minority safeguards; not so much with fundamental rights as with the rights of minorities.

Chairman : I understand that, but I was not quite clear in what form you wanted them expressed.

Major Graham Pole : Mr. Haji said—and we are all agreed—that it is the Governor's duty to protect minorities, but he went on to suggest that there should be a final appeal to the Privy Council. Is not the Governor's decision to be final?

Mr. Haji : I think, if you will allow me, I will reserve that for a few general remarks I have to make at the end of the list.

Lord Mersey : Did you include in that list incidence of taxation?

Mr. Haji : I am coming to that. I think the last item was with regard to the Public Services. The next is that no Laws, Rules or Orders intended to discriminate against minorities shall be passed by Government, Legislatures, Corporations, Municipalities, local self-governing bodies or other official or semi-official bodies. This is where taxation and other items will come in.

Next, racial, religious or linguistic minorities shall have the right to establish their cultural and welfare institutions, and shall be assured an equitable share in the enjoyment and application of the sums which may be provided from the public funds under the State, municipal or other budget for educational, religious and charitable purposes.

Major Graham Pole : From the State funds?

Mr. Haji : From the State and municipal funds. I mean if it is the municipal rule, then, of course, it will be a municipal fund.

Major Graham Pole : But suppose they decide to carry on education on what one may call purely secular lines?

Mr. Haji : I am not talking of religious education. For example, my point is this, that supposing a man in one community puts up a school and one lakh of rupees is required; if according to the rules then existing it is the business of the Government to provide one-third of the cost of the building, ground, or something like that, then that should be forthcoming in this case. That is what I mean.

Major Graham Pole : If anyone wants to provide any kind of school, Christian, Scientist or Mormon, or anything else?

Mr. Haji : Well, that would be religious, and Mormon might be doubly objectionable.

Chairman : Or semi-religious.

Mr. Haji : My Lord, I merely talk of cultural and welfare institutions. Nowadays, religion is merely one of the phases of culture.

Next, I would suggest that suitable arrangements should be made for testing any infringement of these rights, with a right of appeal to

the Privy Council. For example, supposing legislation is brought in, then, of course, the Governor will have the last word. Either he will disallow or he will arrange that he will reserve the Bill, and that will be the method of stopping that kind of legislation. In the case of rights, it might be desirable to have an appeal even as against the Governor, and I think that could best be done by providing the right of appeal to the Privy Council.

Major Graham Pole: It is eminently undesirable.

Mr. Haji: Well, I throw it out for what it is worth. We shall have that point discussed.

Tharrawaddy U Pu: In the case of an appeal to the Privy Council, who will be the appellant and who will be the respondent? ~

Mr. Haji: Well, to-day you have got a form: Mr. XYZ against the Secretary of State in Council.

Chairman: I do not think there is any difficulty about that, that is really a detail, Tharrawaddy U Pu.

Mr. Haji: With regard to legislation I have really this point in mind. I believe it was read out the other day, but with your permission I will read it out again. I am reading from the Fourth Report of the Federal Structure Committee of the Indian Round Table Conference, pages 10 and 11 :—

“ It is also plain that where the Governor-General or a Provincial Governor is satisfied that proposed legislation, though possibly not on the face of it discriminatory, nevertheless will be discriminatory in fact, he will be called upon, in virtue of his special obligations in relation to minorities, to consider whether it is not his duty to refuse his assent to the Bill or to reserve it for the signification of His Majesty's pleasure.”

This will be one of the methods by which the Governor could intervene. The other would be where, just as in the case of legislation, the Governor has the right to reserve it for the signification of His Majesty's pleasure, similarly, as far as the rights are concerned, the subject will have an appeal against the unfavourable decision of the Governor to the Privy Council in London.

These few points, I think, really size up the general position, and I have no doubt that, with the willingness that has been shown on all sides to settle this problem of minority safeguards in an amicable manner, there will not be any opposition to the suggestion I have made this morning.

Chairman: You said willingness to settle, did you? I was not sure whether you said willingness or unwillingness.

Mr. Haji: Willingness.

U Ni: With all the safeguards or fundamental rights, would Mr. Haji still have communal representation?

Mr. Haji: I think right from the very start communal representation and these safeguards have really not much in common. After all, what is communal representation? It is a method by which certain classes of His Majesty's subjects who feel that that they would not have proper access to the Legislature would get that access; but that has nothing to do with the safeguarding of rights.

U Tharrawaddy Maung Maung : Before I begin I should like to ask Mr. Haji to explain exactly whether he is asking for perfect equality in treatment as regards commercial matters.

Mr. Haji : Well, I think I have stated in one of these clauses that we ask for equal treatment.

Chairman : Thank you.

U Tharrawaddy Maung Maung : This same request was made by the European Delegation the other day, and I feel that, although this simple request or demand made by our friends the Indians and Europeans looks a very minor point, if you look at it casually, yet, if you examine the position clearly, you find that if that is acceded to, that industrially and commercially the Burmese will never be masters in their own house, because these matters are, as it were, entirely in the hands of the Europeans and the Indians, and if, with their vast resources, we let them have the same rights, that will mean that the sons of the soil will have no chance whatever to rise up industrially or commercially or even agriculturally. I see that at one of the meetings of the Indian Chamber of Commerce, where probably Mr. Haji himself must have been present, one of their prominent members gave this opinion. He was referring to the same demand made at the Round Table Conference :

“ If the protection required by the British capitalist advocated at the Round Table Conference is to be conceded, it will mean not merely the continuance of present economic enslavement but a tighter grip.”

Chairman : Is that what Mr. Haji said?

Mr. Haji : No; I am supposed to have been present.

U Tharrawaddy Maung Maung : That is what one of their own countrymen has stated in regard to India, and I am surprised to hear Mr. Haji here asking for a different demand and the position being reversed. Mr. Thakur was referring to Indian as against European interests. At the same meeting I think one of the ex-Presidents of the Bombay Chamber of Commerce made a statement in similar terms :—

“ The results of the Round Table Conference discussion regarding equality do not take us any further, but on the contrary, they will, if accepted, move us definitely backwards.”

We contend, My Lord, that Burma industries are so disorganised and that our resources are so very poor—financially I mean—that if we were to accept equal treatment we would never be able to progress along those lines. I am prepared, as far as the interests of firms already there are concerned, not to discriminate against them. We would only ask for special treatment in that case. But in the case of other firms that come in the future—firms consisting of non-nationals—I would demand discrimination against them.

Chairman : What do you mean by that exactly? That is rather a general term.

U Tharrawaddy Maung Maung : I will try to make myself clear. We have the Burma Oil Company there already. The Burma Oil Company pays a certain royalty on all that is got out of the land. I think it is 8 annas or half a rupee. We are willing to let that

continue but if other firms are established after the Reforms then I would demand that they should pay say three quarters of a rupee, or something of that sort.

Chairman : Is your point that you are quite willing to safeguard everyone who is in Burma at present, but that you do not want anything fixed for the future in the case of those who are not in Burma at the present time but who may come in after the Reforms?

U Tharrawaddy Maung Maung : Yes.

Chairman : I want to get this quite clear. You would treat those people who are not in Burma now but who may come in in the future differently in the sense that you would charge them say a larger royalty than is paid by those now in Burma.

U Tharrawaddy Maung Maung : I am content to let them go on on the existing basis.

Chairman : Yes, I heard what you said about existing firms, but I am asking about the future. If somebody comes in after the Reforms and wants to set up a business, what do you propose?

U Tharrawaddy Maung Maung : I say that they should pay more than the people of the soil.

Chairman : That again is rather vague. Do you mean to say that they should pay so much more that it would be really prohibitive, or only that you would charge them a little more because they were foreigners, shall we say?

U Tharrawaddy Maung Maung : My idea is to tax them more in order to equalise the opportunities or chances of success. If they had vast resources behind them we should have no chance at all if we did not have some advantage given us.

Chairman : You would put what may be called a handicap on them?

U Tharrawaddy Maung Maung : Yes, if you like to put it that way, My Lord.

Chairman : You want to put a handicap on them, but you do not want to make it prohibitive. Is that so?

U Tharrawaddy Maung Maung : Yes, just a handicap.

Chairman : I want to have that made quite clear.

U Tharrawaddy Maung Maung : Just a handicap.

Mr. Harper : You want to discourage non-nationals from sharing in the development of the country. Is that the position?

Major Graham Pole : No, he wants to encourage nationals.

Chairman : You can put it either way you like.

Mr. Wardlaw-Milne : May we know exactly what is meant by non-nationals?

U Tharrawaddy Maung Maung : When we come to the question of citizenship we will define what we mean by nationals, including those who are naturalised.

Just one word more. I should like to emphasise what our friends have asked for, that we want a constitutional Governor, and we do not wish to have any of the Civil Service men to be Governors. We would rather have some prominent English public man sent out.

Mr. Wardlaw-Milne : We seem to have wandered rather from the subject of the Governor, but leaving that question aside, as I understand what has been said, the idea is that any trade developments

which will be carried out in future by people who are not born Burmans—

U Tharrawaddy Maung Maung: Not naturalised.

Mr. Wardlaw-Milne: The idea is that any such developments carried out by these people shall in some way be discriminated against. I say at once that, to my mind, the logical conclusion is that Burma should be outside the Empire. There can be no possibility of remaining within the Empire on an arrangement which puts one subject of the Empire at a disadvantage as compared with another. I should most strongly object to any proposal in these Reforms whereby one citizen of the Empire was treated in a different manner from another citizen of the Empire. The word "protection" has been used, but this has nothing to do with the protection of industries. Discrimination is a very different thing.

U Tharrawaddy Muung Maung: But do you think, if there is no protection like that, that we Burmese people have any chance of success on an equal footing? If there is no such protection given to us in our own country I do not know where we should be.

Mr. Wardlaw-Milne: Is it the suggestion that the Burmans are less capable or less enterprising than other people? I have never heard that suggestion. I have always thought of them as being as enterprising and industrious as others.

U Su: This point is rather aside from the question of the Governor, but the point is that the previous Government, which was irresponsible for the masses of Burma, gave certain privileges to foreigners—business firms in Burma—and by the aid of these privileges these people have exploited the resources of Burma. If the present wretched conditions of our people are continued, and we remain impoverished, while these others have their special privileges and are able to exploit our resources further in the future, I do not think there will be any prosperity in Burma. But that is a question of finance, not a question of the Governor.

Chairman: I think it is relevant, because the Governor's powers would extend, of course, to the protection of minorities.

U Su: What I would suggest to the Governor is that in the interests of the welfare of the masses who are impoverished, the distribution of wealth in our country should be equalised, and to that end a certain amount of the dividends should be confiscated by the Government for the benefit of the country.

Chairman: That is not a new proposal.

Major Graham Pole: You should always use some other word instead of "confiscation," even if that is what you mean.

Mr. Harper: I should like to ask U Su two questions. Firstly, to whom is he referring as "foreigners?" If he refers to British subjects in Burma we cannot accept that title. Secondly, what privileges have been given to "foreigners" which are not equally available to a Burman?

Mr. Wardlaw-Milne: If that is not to be answered, My Lord, I want to say with regard to what has been said that I gather now the position is again changed. It is not an idea of discrimination exactly but it is a proposal that in the past special privileges have been given

which should not be continued. That is quite another matter. That will be entirely a matter for the Government of Burma to decide on what terms they should allow the country to be opened up or developed or industries developed; and I have no objection whatever to their laying down whatever conditions they may think desirable; but such conditions must be absolutely the same for everybody; there must be no discrimination. As to what the conditions may be I do not think it is for us to enter into any details at all. I would only add to that that it is essential in the interests of Burma to have the country developed in every way they can. Whatever the terms may be they must be the same for everybody.

U Su: What about the monopolies granted before to the foreigners?

Mr Wardlaw-Milne: I do not know anything about them: but that is nothing to do with the Conference.

Chairman: No. I do not think that arises.

Sir O. de Glanville: My Lord, certain questions have been put which have not been answered. I think the reason is that the answer is that no special privileges have been granted to the Burma Oil Company or to any British company in Burma. What has happened is that British enterprise has entered into Burma and has built up businesses. The Burman has not had the same amount of enterprise, and although he has had the same facilities, he has not built up businesses himself. The suggestion now is: Let us stop this and keep these people out so that Burma can build up a business. I think that is what is really suggested. As regards these companies, they are all limited companies; their shares have been on the market for years, and every Burman has just as much opportunity of participating in this exploiting as they call it of the country as people in England or elsewhere have. There is no bar, I may say, in any company in Burma against the Burman taking shares.

I rose really to speak about the powers of the Governor. Powers must be given to the Governor. The reasons for that are set out very clearly and lucidly by the Government of Burma in its memorandum to the Statutory Commission. Since that Report has been written, the Burman Government has I think, somewhat changed its attitude and holds somewhat more advanced views; but I do not think that on this particular point it has in any way changed its views. I think what they have said to the Statutory Commission sums up the position very clearly. On page 586, in paragraph 15, they state:—

“ We do not think that Parliament can divest itself of its responsibility for the maintenance of the safety, tranquillity and financial stability of the Province, and we are clear that where these matters are essentially affected, the Governor should have powers to make his responsibility effective. Logically it might be held that since Parliament will specify in the Statute only essential requirements, similar powers should be conferred on the Governor in respect of any measure which, in his opinion, essentially affects his responsibility for the fulfilment of any of the essential requirements of Parliament. But a power of this kind would be a very wide power, and provisionally, we are of opinion that in respect of requirements other than those relating to the maintenance of the

safety and tranquillity of the province and of its financial stability less complete checks should be imposed."

In paragraph 16 they say:—

"The Governor should be given power on the one hand to require his Cabinet to adopt any measure, which, in his opinion is essential for the safety and tranquillity of the province or any part of it or for the financial stability of the province, and on the other hand to suspend or reject, in whole or in part, any measure which in his opinion essentially affects the safety and tranquillity of a province or any part of it or the financial stability of the province."

Major Graham Pole: There is no dispute about any of that, is there?

Sir O. de Glanville: I hope not, but from what has been said I am afraid that there is a tendency among my Burmese friends to require the Governor to exercise his powers on the advice of his Cabinet, with which I do not agree, and I do not think that is a power which should be conceded. The responsibility must, in my opinion, rest entirely with the Governor; but it is claimed by the Minorities that in addition to the provisions in the Statute for the safety and tranquillity and financial stability of the Province, there should be provisions against racial discrimination; and therefore I do not agree with the part of paragraph 15 in the Government's Report, but I think that the same duty should be cast on the Governor as regards the protection of the minorities as is cast upon him for safety, tranquillity and financial stability—that is to say, that he should be given power to adopt any measure which, in his opinion, is essential for the safety of the Province or for protecting the rights of minorities, and, on the other hand, he should have power to suspend or reject in whole, or in part, any measure which infringed their rights. That is, broadly, what we would ask for—that there should be statutory provision, and that the Governor should be the person who should be the champion of the minorities. He should not be merely in the position of a judge who would only act when he received a petition from some person aggrieved, but it should be his duty to watch what is going on and to interfere in every case when he sees that the rights of minorities are likely to be prejudiced. Those, I think, are the general powers that should be conferred on the Governor. They have not so far been dealt with by the other side, but I hope that they will agree that it is essential that powers of this nature should be given.

There is another point on which I should like to hear views expressed by the Burmese members, and that is as to the powers to be conferred on the Governor in the event of a partial breakdown of the constitution or in the event of a complete breakdown of the constitution. Certain powers are contained in the Government of India Act, and the Governor, in the case of breakdown takes over the administration himself, and that power must, I think, be continued. The point was raised at an earlier stage, and I think Tharrawaddy U Pu gave us a promise, in reply to Lord Winterton, to state before this Conference what he would do in the case of a breakdown. So far we have not heard anything in the discussion on the powers of the Governor as to what, in the opinion of the Burmese, should happen.

Tharrawaddy U Pu: I do not quite follow you, Sir Oscar. Will you please repeat?

Sir O. de Glanville: I say that I think at an earlier stage of these proceedings you gave us your promise that you would state before this Conference dissolves what you consider should be done in the case of a breakdown of the constitution.

Tharrawaddy U Pu: Not the breakdown, I think.

Sir O. de Glanville: Well, in the event of a majority in the Council endeavouring to wreck the constitution. It breaks down then, does it not? If the majority refuse supplies, that is what I call breakdown. It is a position that we must contemplate, as I have pointed out before, and I think that absolute power must be given to the Governor to deal with a situation like that and to take over the administration himself.

Major Graham Pole: The fundamental idea being that government must be carried on.

Sir O. de Glanville: Must be carried on, yes. If the Ministers will not do it, if the Council will not do it—well, the Governor must.

Tharrawaddy U Pu: Well, what is the meaning of your breakdown? Please define it.

Sir O. de Glanville: I can only give two examples of it. I thought it was quite simple. Supposing under your constitution you have your Ministers, and so on who are governing the Province, and suppose your Council refuses to grant the money to do it; what happens?

Tharrawaddy U Pu: Why not dissolve it?

Sir O. de Glanville: Dissolve what?

Tharrawaddy U Pu: Dissolve the Assembly.

Sir O. de Glanville: Yes, that probably is what the Governor would do. The Governor would probably dissolve the Council, but in the meantime somebody must carry on.

Tharrawaddy U Pu: Of course the Governor must carry on.

Sir O. de Glanville: Then that is admitted. I am glad my friend Tharrawaddy U Pu does admit it. Then we have another important point and that is the power in emergency of governing by Order. That I think must be granted to the Governor in case of emergency. I think that will have to be put in. We have an example of that now in the Government of India Act and it is on those lines that we must give power to the Governor in Burma in future. Those are the only general points, My Lord, on which I wish to speak.

U Ba Si: In discussing the reserved powers of the Governor I would like to call Your Lordship's attention and the attention of the Conference to the Declaration made by the Prime Minister early this month. He said:

"In such statutory safeguards as may be made for meeting the needs of the transitional period, it will be a primary concern of His Majesty's Government to see that the reserved powers are so framed and exercised as not to prejudice the advance of India."

In our case, Burma.

Then I should like to quote also some words used by Sir Oscar de Glanville in his speech in the course of the general discussion. He said:

"We ought to have a Constitution with safeguards which will enable us, without further legislation, or Round Table Conferences, or Statutory Commissions, gradually to attain full responsible

self-government. I take it full responsible self-government will be attained by the gradual falling into disuse of reserved powers which may be in the hands of the Governor, or the Minister, or the Secretary of State. It is by the gradual falling into disuse of such powers that the Constitution will evolve. That is the way in which the English Parliament has grown."

My Lord, I would like to call in aid those remarks made by the Prime Minister and by Sir Oscar in his speech when we are discussing the reserved powers to be left in the hands of the Governor.

Sir O. de Glanville: May I point out that there was another part of my speech which my friend has not quoted. In referring to defence and certain reserved subjects I stated that in my opinion the time for the transfer of those to responsible people in Burma should be determined by Parliament and by Parliament only.

Lord Winterton: On that point I should like to point out, although the last speaker was quite entitled to quote from the statement of the Prime Minister—that a very important statement was made by the Lord Chancellor in the House of Lords in the course of the recent debate. The Lord Chancellor was asked specifically—or rather, Lord Hailsham was asked by Lord Salisbury—whether the House of Lords was committed to any particular Constitution. The reply was that they were not committed. I do not think therefore, that it ought not to be thought that there was any committal of Parliament in this country or indeed that the Government have asked Parliament to commit themselves to any particular Constitution for India or for Burma until the safeguards proposed have been seen in black and white. It is very important to make that clear.

U Ni: In connection with breakdowns—though I think this point has been touched upon in our previous discussions—the usual thing would be to dissolve, the Majority Party carrying on the Government in the meantime.

Sir O. de Glanville: I am assuming that the Majority party would be unwilling to do so.

U Ni: I do not know how in such circumstances it could be assumed that any party in power would be unwilling to carry on. I follow the statement that they must carry on until new Ministers are appointed. I have dealt with that.

Mr. Cowasjee: If the majority party determine to wreck the Constitution, what is going to happen? What will then be the position? That is the point.

U Maung Gye: It will be necessary to dissolve and have a general election.

Mr. Cowasjee: Supposing the majority party wrecks the Constitution, there must be the machinery to carry on the administration.

Lord Winterton: Suppose that the Majority Party not only wreck the Constitution but are returned again at the election and continue to do so what would then be the safeguard?

U Ba Pe: May I say a word on this point of breakdown? After the election one of the parties will be the majority party. It will be asked to form the Government of the day. If it refuses the Governor will ask the other parties to form a Coalition Government and carry

on. If they also refuse, Parliament must be dissolved, but before dissolution one party must be in office, and that party must continue until after the dissolution, when the new Government must carry on. The office will be in the hands of the responsible Ministers at the time of the first dissolution.

Major Graham Pole: But suppose the responsible Ministers refuse to work, and after a general election the next responsible Ministers refuse to work, is it not really the case that the Governor must carry on the Government?

I Ba Pe: There will be no lack of responsible Ministers, and I do not think the Governor should be given the power which is suggested.

Chairman: You would take more powers for the Ministry than is the case in India? You say that what has been judged necessary in India is not necessary in Burma?

I Ba Pe: I do not admit that such powers in the hands of the Governor are necessary in Burma.

Major Graham Pole: But you admit that the Government must be carried on?

I Ba Pe: It must be carried on.

U Ni: If I may continue my argument there is another point on which I would like to touch namely, the interpretation and exercise of the safeguards of the Constitution. In the Irish Constitution there is a provision stating that the interpretation of the Statute or Constitution is to be on the lines of the Canadian procedure and practice or usage. I take it, My Lord, that in the interpretation and exercise of these safeguards, if any point is not clear, the Governor will at least put upon it the same construction as would be put in India on these similar safeguards, and not put upon it a construction in any way inferior to the construction that would be adopted in India. A provision to this effect might be included in a suitable place in the Bill or Statute.

With regard to the Ordinances, I do not see how it will be necessary, these wide powers having been given to the Governor, for him to step in at once when a crisis has arisen. I do not think it will be necessary to particularise this point, that the Governor should be able to pass any Legislation or Ordinances. I do not think it will be necessary, and I do not think the Governor need resort to this course of legislation. He has ample powers; he can step in when he considers that the safety of the country is imperilled or when he considers the financial stability of the country might be in danger.

Chairman: In the case of these difficulties that you foresee, you say he has got ample powers. It is rather difficult to say that beforehand, is it not, before you know what situation will arise? Is it not reasonable to suppose that he may wish to strengthen his hand by certain powers: pass certain temporary Ordinances, say for six months or so, in order to enable him to do something which he could not otherwise do, in the supreme interests of order?

U Ni: Of course, if we pursue the same point in the same light, it will come to that, I should think. If we want to give effect to the idea that he ought to be able to control in the last resort, it will come to that, but ordinarily I do not see any contingency.

Chairman: Ordinarily, no

U Ni: Ordinarily means even in very extraordinary times.

Before I finish, My Lord, there is just one point on which I want to touch. That is in connection with the point touched upon by my friends U Tharrawaddy Maung Maung and U Su. I just want to clear that up. There is one thing which I find, for instance, in connection with the Minerals Concessions Act. An ordinary man, even though he may possess a certain amount of money to enable him to carry on this mining business, unless he obtains an Approver's licence, will not be allowed to get a lease.

Major Graham Pole: What sort of licence?

U Ni: It is called the Approver's licence. You have to be approved.

Mr. Harper: It is a certificate of approval.

Chairman: He has to get a licence to do it

U Ni: Yes; and there are so many qualifications and rules and so forth, framed just to disqualify or disable any ordinary man with sufficient money from getting that licence

Mr. Harper: Is it racial at all?

U Ni: That is what I find, and I think they are partly referring to this point. I have been told by some of my friends that we ought to see that the position is made clear.

Mr. Howison: May I ask if these conditions are peculiar to Burma?

U Ni: Well, I find that they are quite to our disadvantage, unnecessarily I should say, not necessarily. It works very hard on us. Why should all these restrictions be put on? They are very unfair to anyone.

Lord Mersey: My friend Mr. Foot is not here. He could answer in detail, but I am quite sure that in this country if you want to start a mine you have to get a licence from the local Government Board. You might not put up the proper safeguards, or you might not comply with the Factory Act. The ordinary man in the street cannot go and start digging a mine.

U Ni: I do not mean that the ordinary man in the street should get permission, but the rules are so framed—

Mr. Haji: You will find similar provisions in the Government of India Act. Burma follows India.

U Ni: I do not think we have these conditions in any other country.

Chairman: You think some of the conditions are a little stiff, although you agree that they are the same for everybody, do you not?

U Ni: Yes.

U Su: I should like to explain one thing with regard to the pioneers of industry in Burma. After my studies in Germany, I had the intention to start a soap factory in Burma. I went to see the Deputy Commissioner, and he questioned me about various things. He thought I was a German spy, and so he did not grant me a lease, and for that reason I gave up my industrial studies and I dabble in politics.

Sir O. de Glanville: May I ask if U Su suggests that a lease is required to start a soap factory? You can start a soap factory anywhere in Burma provided you do not cause annoyance to your neighbours or break the municipal regulations. There is no law against starting soap factories. There are those restrictions—that you shall not annoy your neighbour.

Lord Winterton: It is common to every country.

Miss May Oung: I should like to join in in this debate only on very general grounds. While listening to the debates of the last few days I have felt that there is a certain amount of suspicion in the air. There seems to be on one side, a suspicion of the Governor under the new regime and a suspicion against the new Government that is to come. I should like members of the Conference to remember that when we are discussing powers of the Governor, that the Governor who we hope will be appointed with the new constitution will be one who is going to help us to work out these new Reforms, and if the Governor is going to help us to work the new Reforms I do not see why we should suspect him or refuse him powers which we feel might obstruct the smooth working of the new constitution. That is one of the reasons why we desire a Governor who is used to constitutional methods, who will not, in a way, if I may say so, be hampered too much by his administrative experience and his administrative training. On the other side, I would like members to remember that, whatever new Government comes into the country it will come in fully realising that it has got a lot of up-hill work to do, that it has got to rebuild the nation, and any Government that comes in, if only for its own sake, will not allow undue political influence or any political discrimination to upset the programme they have brought forward. They would realise that the efficiency of the Services would have to be kept up and that the High Court would have to be retained in its present independent form. In everything, a high standard would be required. All eyes will be on the new Government, and I, for one, have absolute faith that any Government that comes in will realise the duty that is before it, and that it will work to its utmost capacity to make a success of the new Reforms.

Personally, as I have said I would prefer to have a Governor who would function constitutionally, but I realise that at present there is this dual character of the Governor. There is a side of him which is responsible to Parliament for certain of the powers which may be reserved to him and I would like you, when you are discussing the suggestion that has been put forward by U Ba Pe, to remember that there are certain points which should be emphasised. One is that we would like the Constitution to grow automatically. Therefore, we would like the people to be educated in these subjects. Another point is that the Governor should have the fullest information of what is going on in the country and of the state of public opinion. That means that contact should be established definitely between the Governor and the people. Whatever constitutional device is made I hope that this point will be remembered and that there will be nothing that is entirely taken away from the purview of the Legislature. There is another point on which I would like to ask a question of Major Graham Pole. In the list of wholly reserved subjects that he mentioned, one was ecclesiastical administration, which I know is a Central subject at present. I do not know exactly what he meant by it. I think he said it would come under Defence. If by that, he means that there must be a certain amount of ecclesiastical administration while British troops are being maintained in Burma, I can understand that.

Major Graham Pole: Yes, that is the point.

Miss May Oung: If it means ecclesiastical administration for the people of Burma generally.

Major Graham Pole: No No.

Miss May Oung: Then it is a question which should come under the Army, should it not?

Major Graham Pole: Under Defence.

Miss May Oung: And the money voted for it, will come under the Army, will it not?

Major Graham Pole: Under Defence.

Miss May Oung: I would like to point out to the Conference that of the population of Burma, according to the 1921 census, there are 85 per cent. Buddhists.

Major Graham Pole: May I put it as European ecclesiastical administration? That would probably clear up the point.

Chairman: It means what we call the Army padres.

Miss May Oung: We have more than Army' padres in Burma. That is why we have to make this point clear. I want to know what Major Graham Pole means by ecclesiastical administration because we have in Burma 85 per cent. Buddhists, 4 per cent. Animists, 4 per cent. Hindus, 4 per cent. Muhhamaddans, 2 per cent. Christians and 1 per cent. Chinese Culture. I want to know whether this ecclesiastical administration is meant for the 2 per cent. Christians in Burma.

Major Graham Pole: Yes

Sir O. de Glanville: The missionaries, who are the major portion of the padres, do not come under the title "ecclesiastics."

Lord Winterton: I think I can explain it, because I happened to have to make myself familiar with the Bill which separated the Church of England in India from the Church of England here. This ecclesiastical reservation to the Governor in Burma will not affect the Burmese Christians, unless they are officials it will not affect the Church of England in Burma, or the missionaries. It relates solely to the responsibility which the Governor will have and must have everywhere towards British troops and officers in respect of spiritual ministrations to them, and also with regard to cemeteries. It will not affect the position of the Christian churches in Burma generally; these will be under the same position in regard to the law as other religions.

Miss May Oung: But who pays for these ministrations?

Lord Winterton: That is a question of detail. Obviously, if you have British troops, they are paid for through the usual channels.

Miss May Oung: I noticed a certain amount under "Army" for ecclesiastical administration and I just wanted information as to whether it was restricted to that.

Lord Winterton: It would be restricted to that. In the case of India there was an Act passed which separated the Church of England. That Church was made autonomous. The official revenues are not in any way pledged except in respect of certain obligations which the Government has towards British troops. What it is desired to know, I understand, is whether there is any question of applying the general revenues of Burma towards one religion. That is not so. In any event it is a very small point.

U Ba Pe: The Burmese Legislative Council never voted for Army expenditure because it is a Central subject at present, but in the Budget there is an ecclesiastical allocation to the Bishop of Rangoon. I think it has nothing to do with military expenditure

Sir O. de Glanville: The Bishop of Rangoon, I believe, is paid a certain amount by the State for looking after the Army chaplains—the cantonment chaplains—and the rest of his salary is derived from missionary societies for the work he does in looking after Church of England missionaries. The only portion of his salary which has anything to do with this matter is the pay he gets as head or supervisor of the Army chaplains.

Miss May Oung: I am very glad to hear this explanation, because it makes it clear to me that the State is not to administer its funds for the spiritual welfare of 2 per cent. of the nation.

Mr Haji: I think there is some small misunderstanding. The Ecclesiastical Department in India, which is a Central subject, will have to work under the Commerce Department. This Service, like the Forest and other Services, has, I believe, a civil phase, and Miss May Oung is quite correct in saying that there are two phases, one Army and the other Civil, and that for the Civil part the State revenues do pay. As a matter of fact, if you will refer to the Retrenchment Committee presided over by Lord Inchcape, you will find references to this matter and also a minute by Sir Henry Strakosch. The Ecclesiastical Department will be that which is administered to-day by the Commerce Department.

Lord Winterton: It is only in respect of those persons with regard to whom the Government has contractual obligation.

Mr. Haji: Yes.

Lord Winterton: I stand corrected. Miss May Oung; I am sorry. I should have included not only soldiers but other Civil Servants as well, but only those for whom Government has contractual obligations; and Mr. Haji will be aware as a Member of the Assembly that that settlement, or whatever you like to call it, has been accepted by all the other religions and has been found to be satisfactory. I beg your pardon; it is my fault.

Miss May Oung: I want to conclude my remarks by emphasising again that we should remember that both the new Governor who is to come and the new Government that will be elected by the people, will, I am sure, try to work for the smooth working of the Constitution, and that people should not be either, shall I say, obsessed by the ideas of the present day, or suspect the new Government of all kinds of discriminations and political influences; but they should discuss these reserved powers, trusting both the new Governor and the new Government that is to come.

Chairman: I am much obliged for that speech. It is the one speech which has shown that spirit of compromise, about which I spoke a week ago. I now understand why the women of Burma stand so high in Burma.

U Ba Pe: I will start with the commercial discrimination that was discussed between U Tharrawaddy Maung Maung and U Su, and those on the opposite side. There was a statement made by my friends on the left that there is, at present, discrimination in Burma in connection with mineral concessions and other matters. That was challenged by the other side. I happen to be in the know in connection with most of these things, and I am afraid the statement made by my friends on the left is correct. I will give you an instance. I was on a committee called the Burma Forests Committee inquiring into the working

of the Forestry Department in Burma. In the course of our investigations what we found was that a big forest was to be leased to a big firm. The lease was never signed, but the firm was in full possession of the forest working at full speed. This sort of thing would never be allowed to a Burman or to an Indian in Burma, but it was allowed to a European firm. There is no doubt such things are happening in Burma to the disadvantage of the people of the soil. However we are looking forward to better times and I do not want to say much more on this point.

Chairman: Then I understand that you are against commercial discrimination?

U Ba Pe: Yes

Chairman: Both now and in the future?

U Ba Pe: Quite so; but I will come to that in detail.

Chairman: You do not agree with that gentleman who wants a special tax?

U Ba Pe: No, not a special tax; but I will come to it in detail.

Chairman: Very well; you will deal with that.

U Ba Pe: There are firms in Burma, Indian, European and others, doing business, and I will not go into how they are in that position at present. For my purpose it is sufficient to say that they are there doing business, and as to all these firms I say they must be granted the position they are enjoying now; there should be no discrimination against them. But I am not concerned with the present. Those who are in Burma already will be on an equal footing; there will be no discrimination. But what I am thinking of is the future: Should we bind down a future Government of Burma by stipulating all sorts of restrictions now? I am against that and I have good reason for it. The future Government of Burma may be in a position to meet the national requirements, to start various industries in the country or to help the starting of industries in the country. The idea that was abroad in the Indian Round Table Conference was that even the future activities of the future Government of India should be conditioned by certain regulations to be made now. I am rather against that. I do not want to bind down the future Government of Burma. What I want to convey is very clearly expressed in the Government of India Despatch at page 167, paragraph 190. There you will find some very illuminating remarks on this point:—

“ There are enterprises which Indians regard as national, and which at present are mainly or wholly in British hands. It would be idle to expect that they would be content for an indefinite period to remain without their appropriate share in the conduct of these enterprises, and if the methods at first proposed in order to satisfy Indian hopes must be ruled out because they involve injustice, or are inconsistent with the position which Great Britain holds in India, Indians may fairly ask that the British business community should co-operate in finding other methods to bring about the desired result.”

This exactly represents my view on the question. We should leave the future Government of Burma free to deal with the necessities of the time on the question of reciprocity on equal footing. That is the principle. If British merchants or Indian merchants are going to allow Burman enterprise in England or in India, Burma should allow

the same provision to them. Reciprocity should be the principle, and beyond that I do not think it is wise for us to go.

Chairman: Would you wish to insert that principle of reciprocity anywhere?

U Ba Pe: Yes, I am coming to that.

The formula given in the Minorities Committee Report this year, and reproduced in the Fourth Report of the Indian Federal Structure Committee under Commercial Discrimination on page 8 is as follows:—

“ At the instance of the British commercial community the principle was generally agreed that there should be no discrimination between the rights of the British mercantile community, firms and companies trading in India, and the rights of Indian born subjects, and that an appropriate Convention based on reciprocity should be entered into for the purpose of regulating these rights.”

I would go on the lines suggested in this extract by means of a convention, not by putting it in the form of clauses in the statute. There I would simply put in under the declaration of rights that there should be no discrimination between the various races, and so on, because the future action of the Government can only be determined by that Government. It is not possible for us to anticipate what will be the actual requirements of the day that have to be incorporated in the convention; so I would leave the matter to the future Government to incorporate an agreement in a convention only laying down this principle of reciprocity on equal footing in the meantime. I think I have made myself plain on this point.

Now, as regards the powers of the Governor, the other day I said I was in general agreement with the general proposals of the Federal Structure Committee as contained in, I think, paragraphs 16 and 21 or 22. To-day I heard my friend Sir Oscar de Glanville talking about emergency powers and ordinances again. I am wondering why my friend is so pessimistic about the future.

He is thinking of the breakdown of the Constitution, and the necessity of the Governor using extraordinary powers, and so on. I suppose that he is just suggesting these things with a view of making use of them if there is any necessity in the future. I do not anticipate such eventualities will arise, but at the same time we must remember that we are going to set up all sorts of special powers for the Governor, and if the Governor is a man who is alarmed at minor things he might use these powers unnecessarily and bring the Constitution into disrepute, and then the country would not back him up at all. Everything depends of course, upon the Governor. If we have a good Governor—and we hope we shall have a good Governor—there will not be any necessity for this.

Major Graham Pole: May I quote some words from the Second Report of the Federal Structure Committee. It is on page 20. Paragraph 23, which is headed “ Breakdown of Constitution ” says:

“ In the event of a situation unhappily arising in which persistent and concerted action has succeeded in making the constitution unworkable, adequate powers will have to be vested in the Governor-General for the purpose of enabling the King's Government to be carried on.”

U Ba Pe: There must be provision for such cases of course, but I am suggesting that we should not be too pessimistic

Major Graham Pole: We do not look forward to its happening, but if it should unhappily happen then there must be these powers.

Lord Mersey: What U Ba Pe really means, as I understand it, is that there is no objection to wide emergency powers being given to the Governor but that it is to be hoped that they will very rarely or never be exercised.

U Ba Pe: I should like to have it set out, not in the Statute, because that could not be done, but in the Instructions, that these powers should be exercised only in the case of real emergency and not in ordinary normal times.

Tharrawaddy U Pu: In the Instructions, not in the Constitution.

U Ba Pe: There was another point raised by Sir Oscar, and that was that the Governor should have the ultimate deciding power in emergency. On that I should like to quote what the Prime Minister said:

“ The provision of reserved powers is necessary in the circumstances, and some such reservation has indeed been incidental to the development of most free Constitutions. But every care must be taken to prevent conditions arising which will necessitate their use. It is, for instance, undesirable that Ministers should trust to the special powers of the Governor-General as a means of avoiding responsibilities which are properly their own, thus defeating the development of responsible Government by bringing into use powers meant to lie in reserve and in the background. Let there be no mistake about that.”

I think that really answers that point. The next point I would like to touch on is the gradual transference of powers or the disuse of the powers entrusted to the Governor, but before I deal with that I should like to put one or two questions to Major Graham Pole. They arise out of the list he read out on Friday. There are a few words which I could not follow and the meaning of which I did not quite grasp. He referred to “ official personnel recruited or appointed by the King or by the Secretary of State ” and then someone added, “ or by the Governor.” Does he mean by that, officers appointed to those departments which are reserved to the Governor for the time being or does he mean any other appointments?

Major Graham Pole: Any one like Civil Servants or others recruited by the Secretary of State who have a direct contact with him.

Tharrawaddy U Pu: Has that been accepted? The question as to who should be the appointing authority is still undecided.

Major Graham Pole: If there are any officials at present who have contracts with the Secretary of State, or any who in the future may be appointed—I do not say there will be any—then the Governor would have the responsibility

U Ba Pe: What I do not understand is whether you want to give to the Governor the power of protecting the rights of these officers or the control of these officers—either or both. That is my question. There will be Indians and other people serving in departments in Burma which have not been transferred. But the control of these officers, their transfer from one place to another, who is going to deal with that?

Major Graham Pole: No it is a question of the rights under the contract. The Minister, of course, will post them.

U Ba Pe: You mean that the rights in the contract of the Service will be protected by the Governor? You referred in another place to "Imperial interest." What is that? I do not know.

Major Graham Pole: That is a power still held by the Secretary of State in the provisionally transferred field. It is rarely exercised.

Chairman: Suppose there are certain obligations entered into at Geneva or elsewhere on behalf of all the countries of the Empire. If anything was done or proposed that contravened the general Imperial obligations, the Secretary of State would have some power to intervene.

U Ba Pe: Well, My Lord, if I may proceed with my general argument, we are trying to frame the outline of a constitution that will give Burma responsible self-government, but in doing that we find there are certain departments which, for some reason, cannot be placed under the popular control at once. The problem is two-fold. The first part of the problem is to find out which are the subjects that will have to be kept apart, and the second part is as to how these subjects are going to be transferred to the popular control later on. The other day I threw out a suggestion so far as the Army matter was concerned, but which I believe is applicable to other departments, namely, that there should be no division of transferred and reserved subjects, but that all subjects should be classed as one within the purview of the Legislative Council, except in regard to certain subjects, like the Army, Foreign Affairs, and so on—a few subjects where we should provide the Governor with special powers, so that he could always intervene if either the Minister in charge or the Council was exceeding the limit up to which they were allowed to take their responsibility.

I do not know whether that idea is fully appreciated by my friends opposite, but that was what I threw out the other day.

Chairman: I think you have explained it quite clearly, *U Ba Pe*; I remember it very well.

U Ba Pe: Yes, My Lord. Now, if that idea is acceptable, then there will be two things. In the first place, it will answer what was anticipated by my friend, Sir Oscar de Glanville, namely, it will avoid the necessity of revising the Constitution from time to time, allowing it to grow itself without recourse to periodical revision. It will also answer the objective sketched out in your statement that with regard to all subjects, the control or the training will be over all the fields of administration.

I purposely advocate this line of action on very good grounds. We do not know what is going to happen in India. What is acceptable to Burma to-day may not be acceptable to them later on. It is of the utmost importance that reforms satisfactory to the country should be introduced as quickly as possible. The division of subjects into reserved and transferred will always remind the people of the country of dyarchy and nothing else, and that, will have a bad moral effect on the new Constitution. If there is no such thing as reserved subjects, but subjects placed within the purview of the Legislature which are subject to control by the Governor by special powers, this division will disappear, and people will not have much to say against it.

Then, if the reforms are delayed, whatever good results we may achieve now will not be of value later on, because the people, as you know, are rather under the influence of wild forces. Undesirable things which are happening in India may have an adverse effect in

Burma. At the same time, in Burma itself the whole country is rather restive. In parts we have the actual rebellion in some form going on. It is, therefore, of the utmost urgency that we should do something that will satisfy the bulk of the people in Burma, at the same time cutting them away from wild forces of discontent and disorder.

As far as Burma is concerned, if you will accept our suggestion and put it into operation early next year, I am confident that we can have the desired effect in Burma.

Major Graham Poole: You do not want to go back to Burma then and explain what has been done at the Round Table Conference, before the Constitution is framed?

U Ba Pe: If the Constitution is on the lines suggested by us there is no necessity to go back and explain.

U Ni: The goods can be delivered.

U Ba Pe: In that case we are in a position to deliver the goods. Under my scheme or my suggestion the Army, Foreign Relation, Currency and Coinage, and all those at the present moment proposed to be reserved to the Governor, will be within the purview of the Legislature, of course, under the control of the Governor. For instance, take Coinage and Currency. We have the Nixon-Howard Report, and, until the financial settlement between India and Burma is settled, it will not, of course, be possible to say anything. But in principle, though the currency and coinage will be within the purview of the Legislature, in actual practice it will be administered in accordance with the advice of the financial experts. In Burma, of course, there is no Reserve Bank, and in India there is no such thing yet, and the idea is not to transfer currency and coinage to the Indians unless and until they have formed the Reserve Bank in India. I wonder how they do it, for instance, in Siam. They have no Reserve Bank, but they engaged a British financial expert to run the thing. Surely Burma can do the same thing. My friends here referred to Ceylon. Ceylon is only tacked on to India. They are allowed to issue a certain amount of currency and coinage, but the whole thing is based on India. In the next few years we may have to follow Ceylon's system, and later on, of course, we hope to have full control over it, but I do say that there should be no difficulty in transferring such things, provided the Governor, with the help of financial experts, can always check the Legislature. On the whole, I am rather confident that if you are in the position of being willing to meet us on these points we can easily get round the whole country to our view and settle down to real constructive work without further agitation and discontent in the country.

(The Committee adjourned at 1.15 p.m. and resumed at 2.45 p.m.)

HEAD 10.

FINANCE

The following points for discussion in connection with this Head were drafted by the Chairman:—

(i) *Budgetary arrangements and questions of a Consolidated Revenue Fund.*

(ii) *Respective powers of the two Chambers of the Legislature.*

(iii) *Provisions regarding supplies required by the Governor.*

(iv) *Monetary policy and Currency.*

- (v) *Railways.*
- (vi) *Loans.*
- (vii) *Question whether financial proposals generally should require either the prior sanction of the Governor or be made only on his recommendation.*
- (viii) *An official Finance Minister or Financial Adviser.*
- (ix) *Auditor-General.*

Lord Winterton: My Lord, I think it would be convenient if I inaugurated the discussion on finance, which, of course, must be considered in connection with the question of the Governor's powers. There are a great number of aspects of the question which I wish to deal with very shortly this afternoon. First of all—though this is really mainly a question of machinery—is the form in which the annual financial statement of the country shall be made to the Legislature.

It seems to me that there are two ways in which it can be done, namely, by the production of an annual Finance Bill, which is the custom in this country, or by the presentation to the Legislature of a financial statement of revenue and expenditure, which is the practice followed at the present time in India and also in Burma. I have no strong views on the matter, but I think that probably the presentation of an annual financial statement, which is the present system, is the better.

Then the question arises of the important matter as to the way in which the revenue shall be paid in: whether it should be paid into a single consolidated fund or not. I should suppose it would be best to pay it into a single consolidated fund.

Next we come to the question of the supply which may be needed by the Governor for the subjects of which he is in charge, for example, defence. Should it be non-voted? I hope there will be general agreement that it should be non-voted.

Then, arising out of the last point, there is the question whether there should be a contract allotment extended over a term of years in respect of those subjects to which I have referred—those over which the Governor is placed in charge—or whether it should be voted annually, and also, as a sub-heading to that matter, by whom the amount of the allotment shall be fixed. I think that it would be best to leave it as a matter of administrative arrangement rather than to lay down any hard and fast rule. As the Conference is aware, there has been a contract allotment in respect of defence in India in force in recent years, but previous to that, the amount was voted each year.

Another question is as to whether the Governor should have the power to secure the funds needed for the administration of the subjects of which he is in charge. It is obvious that he must be empowered to obtain those funds.

Then we come to the question of transferred subjects, and there I would ask this question: Do we agree in principle that adequate safeguards should be provided in respect of certain transferred subjects in which the Governor would normally act on the advice of his Ministers? I would designate as examples, the preservation of peace and tranquility, the preservation of rights guaranteed to members of the public services in the constitution, the preservation of the financial credit and stability of Burma and the fulfilment of her debt obligations, and the protection of minorities. I think there will have to be some

provision of that kind: some ultimate residuary power in the Governor's hands.

Then, if that is so, if the safeguards in respect of these things I have mentioned are agreed upon, it would follow, I think, that the Governor, as in the case of subjects of which he is in charge, should have power to secure the funds needed for the discharge of his duties.

The next point with which I wish to deal is the very important question of the management of monetary policy and currency. Assuming it will not be possible for some time to set up a Reserve Bank for those two purposes—that is to say, the management of monetary policy and currency—should these subjects be placed for the present in the charge of the Governor? I think emphatically the answer is yes.

Then I come to the question of railways. Is it desirable that the administration of railways should be placed in the charge of the Governor? I do not think it is desirable. I think that the railways must be transferred; but an important question is: in what form should the railways be transferred or, to put it more accurately, to whom should responsibility for railway policy and finance be transferred? Well, I hope the Conference will be willing to adopt the plan which is in force in India and which I hope and suppose will be continued under the new constitution in India, that of vesting the management in a Statutory Railway Board, subject to control by the Ministry as regards policy. I understand that Burma has about 2,000 miles of railway at the present time, and though we all hope that it will be possible greatly to extend that mileage in the future, it would not be necessary, therefore, to have an elaborate Railway Board. If that proposal is adopted, namely, that the management of railways is placed in the hands of a Statutory Railway Board, subject to the Ministry's control as regards policy, there at once arises the question of railway finance, or rather the Railway Budget. I think it would be very desirable to continue the practice which at present exists in India of separating the Railway Budget from the ordinary Budget. In the old days in India, as everyone is aware, the Railway Budget was not so separated from the ordinary Budget, with the inevitable result that the railways were regarded by the Government as a sort of milch cow which could always be used in an emergency. I think it is generally agreed that the separation of the Railway Budget from the ordinary Budget in India has been of great benefit. I have not any precedents which I can quote—I have not had time to look into the matter—as to the position in the other Dominions or Colonies or countries of the British Empire; but I think the general responsible public opinion in most countries regards it as essential, if you have a state railway system, that the finance of that system should be separated from the ordinary Budget. Certainly it would give far greater scope, I suggest, to the railways of Burma and to the future management of those railways, if they have their separate Budget.

I next come to the question of loans: the raising by Burma of loans, which is obviously a very important question. A country like Burma, with great potential opportunities of development, a rich country still largely undeveloped, will obviously require to borrow money from somewhere outside the country, in addition to any money that she can borrow within the country, in order to carry out that development. The two objects which any responsible body of people must have in

view in carrying out that policy of loan-borrowing, are firstly, to conserve Burma's credit, and secondly, to put her in the best possible position to borrow in the money markets of the world. I will deal more in detail later with how I think that credit can be conserved, and how Burma can be put in the best position to borrow.

Now the question arises about public debt, public revenue or any measures imposing a charge on the revenues. Should the Governor's previous consent be required to the introduction of measures which will affect these three matters—which will affect the public debt, will affect the public revenues, or any measure imposing a charge on the revenues? Well, while I am not prepared to lay down at the moment the conditions under which it will have to be obtained, I think the Governor's sanction should certainly obtain in some measure for those three objects. Following from that, should it be required that proposals for the raising of taxation or appropriation may be made only on the recommendation of the Governor? On the whole, I am inclined to think that it should be only on the recommendation of the Governor.

Next comes the question which we have already discussed in connection with the other subjects—the question of who shall be the financial authority in Burma under the constitution leaving aside for one moment, the Governor. Well, there will obviously have to be an official Finance Minister who will be a member of the Burma Cabinet, and in addition to that I hope that it is now generally agreed that there will have to be an official Adviser. The official Adviser will be necessary—

Major Graham Pole: An official Finance Minister?

Lord Winterton: Yes, I say an official Finance Minister.

Chairman: Do you mean a Finance Minister who is an official?

Lord Winterton: Oh, no

Major Graham Pole: That is the point I want you to deal with.

Lord Winterton: Yes; I am sorry—not a Finance Minister who is an official, but the Finance Minister of the Cabinet will be officially the Finance Minister. Let me put it in that way. I am sorry that I used a term which might be open to misapprehension. It is certainly not that he should be an official, but that he should be an official Finance Minister. In order to avoid the use of the term “official,” let me say a Finance Minister who will be officially the Finance Minister of Burma. I will avoid the use of the word “official” in that connection.

Major Graham Pole: I thought our friends might misunderstand.

Lord Winterton: Quite right—a member of the Cabinet who will be officially the Finance Minister of Burma; and in addition there must be a Financial Adviser, because otherwise it will be impossible, obviously, for the Governor to keep in touch with the Ministry in connection with those matters over which he will have either full or some responsibility.

Now, I can well imagine that some might be suspicious as to the exact duties of this official Financial Adviser to the Government. It may be asked what his duties would be, more specifically stated than in the way in which I have just stated them. Well, I think it might be phrased in this way. He would have to be responsible for producing for Burma the best possible credit in the markets of the world,

and at the same time he would have to show the minimum of interference with the Minister in the Cabinet in respect of his duties. This Adviser's duties would be of a comprehensive character. Among other things he would have to keep in touch with the financial currents of the world outside. I understand that in a neighbouring country to Burma—in the case of Siam—there is a Financial Adviser to the Government, and, of course the provision of Financial Advisers has been very common in many countries both before and since the War. I do not imagine that there will be any difficulty in agreement about the fact that an official Adviser should be appointed. The difficulty may arise in deciding exactly what his duties should be; but I am content to say that they should be of a comprehensive character and that he should be primarily concerned with keeping the financial arrangements of Burma in good order, and should keep in touch with the current financial policy in other parts of the world.

Obviously there will have to be an Auditor-General appointed, and I think that should be provided for in the Constitution, laid down in black and white.

I do not propose to go closely into the question of currency. I assume that it would be the wish of Delegates from Burma that Burma should continue, for the present, to use the Indian rupee currency.

I would like to hear what views are expressed on that point. If, and when, a separate currency is established, other measures might have to be adopted to secure monetary control, but for the moment, as I say, I assume, and indeed I suggest, that Burma should continue on the rupee currency. What I have said on this issue is not intended to be an exhaustive review of all the very important questions that arise in connection with finance, but I have suggested certain sub-heads to the question for discussion and I have laid down what I hope will be regarded as sound rules in connection therewith.

Tharrawaddy U Pu: Who will appoint your financial adviser?

Lord Winterton: The financial adviser will be appointed by the Governor.

Tharrawaddy U Pu: Responsible to the Governor?

Lord Winterton: Responsible to the Governor, certainly.

Mr. Howison: Before speaking on the subject of financial safeguards I would like with your permission, My Lord, to make a few comments upon what was said before lunch by some of the Burmese delegates on the question of commercial discrimination. U Tharrawaddy Maung Maung put forward a suggestion that in future non-Burmese firms should be subjected to some degree of handicap as compared with Burmese firms in the industries of the country; and I think that U Su made a still more startling proposal advocating some sort of confiscation of profits of non-Burmese firms in certain industries. I presume that the idea is that these non-Burmese firms should be punished in some sort of way for having contributed to the development of the country. At least that is how it strikes me.

U Tharrawaddy Maung Maung: May I correct Mr. Howison? I said non-citizens not non-Burmese, and I referred to the entry of new firms that would come in and not to existing firms.

Mr. Howison: In any case the principle seems to be the same, and I just wish to say that, as far as Europeans are concerned, we could not possibly accept any proposals on those lines. We think we are

entitled to, and we claim, to be treated on an absolute equality with other subjects carrying on business in Burma.

Then some reference was made to certain privileges or advantages which had been accorded by the Government of Burma in the past to British firms. I would like to say that so far as I am aware no such privileges exist or ever have existed. I have been in business in Burma for over twenty years, and I do not know of any occasion on which the Government has shown any partiality or given any special advantage or privilege to any concern on the ground that it was a European concern as distinct from a Burmese, an Indian, or a Chinese concern. In fact, I think I might go even further, and say, that in my experience, particularly during recent years, Government officials have been so anxious to avoid laying themselves open to any suspicion of this kind that they have, if anything, gone in the other direction and shown a certain amount of bias against, rather than in favour of, European concerns. That impression, however, may be entirely unfounded—perhaps as much unfounded as the other suspicion which my friend U Su has voiced.

My friend U Ba Pe, I gather, would like to deal with this whole question on the basis of reciprocity. No one can possibly object to any treatment that is based on the principle of reciprocity, and I have great pleasure in accepting that principle. I do not, however, agree with U Ba Pe when he proposes to leave this matter more or less in the air at present, to be worked out in future by some sort of convention, presumably between the two Governments. We think it is necessary—and in fact we definitely require—that our position should be clearly defined and our rights clearly specified in the statute itself, and that the Governor should be definitely charged with the duty of seeing that those rights are observed and should be given the necessary powers to enable him to carry out this duty.

I now come to the question of financial safeguards. I think that in approaching this question the first and the most vital consideration in our minds must be how we can best establish and maintain the credit of Burma as a separate State. Credit is a thing of slow growth, and must be very carefully fostered. For this reason I would say that no safeguards should be considered too rigid if they will help to create a sense of security and a feeling of confidence in the minds of investors that the finances of Burma in the future will be administered on sound lines, and that the country's debt obligations will be scrupulously honoured. We have to remember that at the start Burma's credit will be an entirely unknown quantity. We, in Burma, may have every confidence in the resources of the country and in its possibilities of development, but a similar confidence in the country's financial stability can only be created outside of Burma by a long and unbroken record of balanced budgets and strict fulfilment of debt obligations. For these reasons I think that we will all agree that the control of the country's finances cannot be left entirely in the hands of the Legislature. We here round this table may have a certain amount of confidence in the wisdom of an elected Legislature in dealing with financial matters, but I think we shall be making a grave mistake if we expect that confidence to be shared at once in those quarters to which we have to look in the future for financial support. It seems imperative, therefore, that the control of finance in its larger aspects must rest with the

Governor. And the Governor must be given powers to raise the funds necessary to fulfil the country's debt obligations and the funds that he requires to carry on the administration of reserved subjects, without depending on a vote of the Legislature. These funds would, of course, require to be a first charge on the revenues of the country.

It has been suggested—and I think Lord Winterton made reference to this—that these funds might be fixed on a contract basis for a period of years.

Chairman: That was suggested by Lord Winterton for the Army.

Mr. Howison: For the Army only? Well, there seems to be certain advantages in this method, both from the point of view of the Governor and of the Legislature. I have an open mind on the subject, but I am rather inclined to favour that arrangement.

It might happen of course, that an emergency might arise when these funds guaranteed to the Governor on a contract basis would be insufficient for the needs of the moment; and to cover such contingencies I think the Governor will necessarily have to have special powers to raise such additional funds as may be required.

With these powers reserved to the Governor, the whole subject of finance generally will still be, as I see the position, in the charge of the Finance Minister; but the Finance Minister would only be responsible to the Legislature in respect of those particular aspects of finance which did not come within the Governor's direct responsibility. It seems to me that the dividing line between these two aspects of finance might at times be very thin, and it would have to be, I think, for the Governor to decide in such cases. Take the case of Customs, for instance. The Finance Minister must necessarily have a very close concern with customs; he will probably have to look to Customs duties largely, or at least to some extent for the revenue for his budget. But then Customs policy touches closely on the question of external affairs and in that respect comes within the purview of the Governor. But I do not think there should be any need for friction in such cases; it would be a matter of consultation and co-operation between the two branches rather than a question of one side of the administration pressing one policy and the other side rejecting it.

The next question is that of the raising of loans, particularly sterling borrowings. Here I think it is very, very important from our point of view that the future Government of Burma should be prepared to conform to any conditions that may be necessary to enable Burma loans to have the benefit of coming under the Trustee Act and of being classed as Trustee securities. I think that is very important, because any saving in the rate of interest at which we raise our loans, will be a very considerable item in our annual Budget. Whether sterling loans should be raised through the Secretary of State, or through some other agency under the provisions of the Colonial Stock Act, is I think a matter of minor consideration; but, speaking without any great knowledge of the subject, I should think that we should probably be well advised to continue the present practice in India of raising sterling loans in the name of the Secretary of State. I think that would be more likely to create confidence in the minds of the investing public

The last point to which I wish to refer is that of the appointment of a Financial Adviser. As I see the position, there will be in Burma for many years to come a very real need of an Adviser on financial matters to advise both the Governor and the Government. I may be wrong, but I do not think there is in Burma at present, either in the Services or outside the Services, anyone who has the experience that will be necessary to fill such a post.

U Su: Can you get the Financial Adviser from somewhere else?

Major Graham Pole: You would have to, if there was not one in Burma.

Mr. Howison: That is my suggestion. You should get the best man possible, no matter where you may have to get him from; and I think provision for the appointment of an official in this capacity should be made in the statute.

Lord Winterton: Before Mr. Howison sits down may I just refer to one matter with which he dealt—the question of who should be the authority responsible for raising the loans. He suggested that it should be as at present, the Secretary of State. No doubt it is present to his mind that the Secretary of State is not only technically responsible for loans raised at present on behalf of India in this country, but he is also actually responsible, but under the new Constitution obviously the amount of actual responsibility which he would have would be, to put it at its minimum, very much less than it is at the present time. Therefore, the situation would be quite different, both from the point of view of the Secretary of State and also from the point of view of the British Parliament.

Mr. Howison: I was not assuming that the Secretary of State would have any responsibility for loans after they had been floated. The British Parliament and the British Government would not in any way guarantee the loans. My idea was that if loans were issued in the name of the Secretary of State as agent for the Government of Burma it would give these loans a better chance in the money market than they would otherwise have.

Lord Winterton: Yes, but would that be quite fair to the Secretary of State? That is exactly what I wanted to explain. May I point out that, at the present moment, the situation is a very interesting one. The Secretary of State is alone, I think I am right in saying—My Lord Chairman, who has more knowledge of these things, will correct me if I am wrong—the Secretary of State alone is, or was until a certain announcement made by His Majesty's Government last summer, responsible for the raising of loans; the responsibility fell upon him. He can exercise that responsibility under the present Constitution quite properly, because he has the ultimate responsibility for, shall I say, the financial goodwill and the proper conduct of India's financial affairs, and, *mutatis mutandis*, for that of Burma, but, in future, he will not have that full responsibility; and when you say that you will make him the agent of the Government of Burma I am afraid the ignorant investor in this country, when he saw so important a name as that of the Secretary of State for Burma, or whatever he may be called in future, on the prospectus, he would naturally think that that Secretary of State had responsibility. I do not think it would be a wise canon in finance to allow any authority, especially a Secretary

of State, to issue these loans even as agent unless it was made abundantly clear that he did not exercise the responsibility which he used to exercise in that regard. I want to make it clear that without hearing further evidence on that point I should be very unwilling to allow the Secretary of State to be the agent responsible for raising these loans. I think they should be raised by the Governor of Burma on the advice of his financial advisers.

Chairman: I am not quite sure what Mr. Howison did really mean. Did he mean that he was to have responsibility in this sense, that supposing, by some strange perversity of fortune, the interest on the loans was not met, the Secretary of State should saddle the British taxpayer with the deficiency?

Mr. Howison: No, I certainly did not have that in view.

U Su: I would like to reply to Mr. Howison in regard to his remarks about me. He said that I wanted to punish the foreigners. I have not in the least such an idea. Far from that, I would like to work in harmony with the capitalists of your country. In comparison with the Persian Government, although the Persian Government is not a Socialist State, the Oil Companies in Persia have to give about 8 per cent. of the dividends to the Persian Government, and in Burma, when you see how the Government is run you will see that the poor cultivators are taxed—the cultivators are so poor that when the taxes come they have to run from one district to another. Because we live in the jungles, most of the cultivators find when the collector of taxes comes round that they have not got the money and the well-to-do people are asked to lend to them. So my view is just to lighten the burden of the country. The capitalists and those firms who have enjoyed the fruits of Burma long ago should contribute some share of the finances of Burma. We do not think that it should be difficult to ask the Government, in the interests of the country, to take some contribution from those who come and exploit our country.

Mr. Harper: We have been referred to very often as foreigners. We really are not foreigners in any part of the British Empire.

Sir O. de Glanville: I will be very brief as I think we are all anxious to hear the views of the Burmese Delegates on the points that have been raised by Lord Winterton. I only propose to refer to three of them. Firstly, there was a suggestion for the creation of a Railway Statutory Board similar to the Board in India which controls the railways there. I am, personally, very strongly in favour of that. I think it would be fatal to the success of the railways if the Burma Legislative Council continually interferes in matters of internal administration of the railways. The railways are very much in the same position as public companies or commercial undertakings in relation to their shareholders. The directors must run the company and the shareholder only interfere in matters of policy. I think we should accept Lord Winterton's view that we should have a Statutory Railway Board with the Minister or the Council exercising control only in matters of policy. Of course the Council would have the right to pass resolutions for the guidance of the railway administration, but I think that we must make provision to keep a separate budget for the railways and to avoid interference from the members of the Council. I would suggest that it is also a question for consideration as to whether the same principle should not be applied to the Posts and Telegraphs.

Tharrawaddy U Pu: You are adding again to the list of reserved subjects.

Chairman: No. I think you have misunderstood. There is no suggestion here of reserved subjects. The suggestion is that the Posts and Telegraphs should be managed by a Board similar to the Statutory Railway Board.

Tharrawaddy U Pu: But he is adding further restrictions to the list proposed by Major Graham Pole.

Chairman: No, I do not think so. He is making a suggestion that there should be some sort of Board.

Tharrawaddy U Pu: Major Graham Pole did not make such a suggestion. I take it that he is your British Delegate spokesman.

Sir O. de Glanville: I am suggesting this for the efficient working of these departments. A Statutory Board would be in exactly the same position as a Board of Directors is in a commercial undertaking; and, after all, both the Railways and the Posts and Telegraphs are very similar to commercial undertakings. There is one other suggestion, to which Lord Winterton seemed to give a tentative approval and that was that taxation should be imposed only on the recommendation of the Governor. I have doubts about that. Of course, I may have misunderstood him, but I think that if we are to establish responsible government through Ministers we must make Ministers responsible for taxation and not the Governor.

The Governor, of course, has his reserve powers to bring in taxation if it is necessary to keep up the financial stability of the Province, but I think the odium of bringing in new taxation should rest on the people who want it, not on the Governor.

Lord Winterton: I should have explained that it is only the formal procedure which is common in the Dominions; the actual wording is: "The raising of taxation or appropriation may be made only on the recommendation of the Governor."

Sir O. de Glanville: I follow that, but what I want made clear is this: The new Ministers will naturally have new schemes, and they must themselves bring forward proposals which, I take it, will in the ordinary way have the approval of the Governor. One of the first things that will happen in our new Council will be a demand for the removal of the capitation tax and the thathameda, which bring in a very large portion of the revenue at present.

Tharrawaddy U Pu: One crore.

Sir O. de Glanville: It is more than one crore. Over ten per cent of our revenue comes from those two taxes. The Ministry which brings this in should clearly place its own views before the Council and make it quite clear that it is recommending this new taxation to provide for them, and it should also be quite clear that the Governor has given his consent on behalf of them. I want the Ministers to feel that when there is going to be a deficit on their budget it is for them so to manage their affairs that they must put forward suggestions as to how that deficit shall be met, either by new taxation or by reduction of expenditure, and we must see that they do not throw the whole burden on the Government in a matter of that kind. I do not think there is much difference between Lord Winterton and myself on that point.

Lord Winterton: Let me clear it up. One must have regard to the common form. On the transferred side any proposal for raising additional taxation to which the Ministers had agreed would be accepted by the Governor as a matter of course, but the recommendation would be made by the Governor acting with his Ministers. That is the common form ultimately in every constitution in the British Empire. It must be "The Governor with his Ministers" or "The King with his Ministers." It is on his recommendation. You can call it the Governor in Council like "the King and Parliament."

Sir O. de Glanville: I quite follow that, but I thought it might be cleared up to avoid misunderstanding.

The third point relates to the Financial Adviser. On that I think there is very little difference of opinion. The only question is as to how the Financial Adviser is to do anything in respect of transferred subjects. I assume that he will be Financial Adviser not only of the Ministry, but also of the Governor, and the question will arise in transferred subjects as to what is to be done where the Ministry is of one opinion and the Financial Adviser of another. Should the Financial Adviser's opinion be placed before the Council, and, if so, how should it be placed? One suggestion I know has been that the Finance Minister should sit in the Council. Then we would have the position of the Finance Minister talking against the Minister that he was advising, and objections have been raised to that course. If, on the other hand, it were left to the Governor to send a message, that might I think help the situation, because it is quite conceivable that the Ministry in regard to transferred subjects might be starting on a policy which would lead to disaster. The Finance Minister would point that out, and if it is not communicated to the Council, the Council might support the view put before it by the Minister in ignorance of the true facts. I think it might be considered whether the Governor should not be authorised, and in fact, if necessary, empowered, to inform the Council of the Financial Adviser's views in case he considers it necessary.

Major Graham Pole: There is one point, My Lord, with which I am not quite sure Lord Winterton dealt. That is, should both Houses of the Legislature have power to grant or withhold supply, or only the Lower House?

Lord Winterton: I deliberately did not deal with it because it was dealt with at such length on a previous discussion, and I thought that probably My Lord Chairman was aware of the views of the Conference on that. I had had it in mind, but I did not deal with it.

Chairman: Yes, that has been discussed, as Lord Winterton says, at some length already on the appropriate subject.

U Ba Pe: My Lord I have listened with great interest to the remarks made by Earl Winterton, Mr. Howison and Sir Oscar de Glanville. I am unable to agree with them on some points; I will deal with them one by one. The first thing I have jotted down here is about the Statutory Railway Board suggested by Earl Winterton, and later on Sir Oscar de Glanville added Posts and Telegraphs.

Sir O. de Glanville: I said it might be considered.

U Ba Pe: Yes, it is the same thing.

There is a Railway Board in India that deals with railway matters but not with Posts and Telegraphs, and the necessity for a Railway Board in India is apparent. Before the railways were taken over by Government there was more than one company operating all over India, and for uniformity of rates and other matters a Central Board was required to manage all the lines. As far as India is concerned, I think they have a case for a Railway Board. Our experience with the Railway Board so far as Burma is concerned is not a happy one. We received very bad treatment at the hands of the Railway Board lately. Anyhow, after separation, Burma will be cut off from the Indian Railway Board; there would be only one management and one line.

Chairman: There may be more, may there not, in the future?

U Ba Pe: Well, when you have more than one line in the future you can think of creating one; but while you have only one, that is the only State Railway, I do not know whether you will require a separate Railway Board for that matter. You are going to have a Minister in charge of it; he will have under him all the technical advisers and so on; and if on the top of it, you are going to constitute another authority in the form of a Statutory Board, I think you are taking away whatever work is to be done by the responsible Minister, and saddling the country with additional expenditure. I am rather opposed to having a Railway Board at the start; but if after working for a few years, experience shows that we should have one, then let there be one; I have no objection to that. But as matters stand now I am rather doubtful as to the necessity of a Railway Board at this time. Then the next point is the appointment of a Financial Adviser.

Lord Winterton: Might I ask U Ba Pe: would you agree to the proposal which I think is almost more important than the question of the Railway Board—would you agree to the separation of Railway Finance from ordinary government Finance, that is to say, a separate Railway Budget?

U Ba Pe: It is the case in India at present.

Lord Winterton: And it is the case in South Africa also and other countries.

U Ba Pe: Yes, but that is due to having more than one company operating all over India.

Major Graham Pole: It is the case of the Post Office, for instance.

U Ba Pe: Yes; I will come to that. In Burma we shall have only one concern, that is the State Railway; and if you want a separate account for railways apart from ordinary revenues of the country. I do not know whether it is worth while for Burma to have it. If it is best in the opinion of the experts, to have a separate one later on, I have no objection in principle; but I am just wondering whether you can start it without these complications.

Chairman: Yes. Of course, the point was whether you could have really proper commercial management under a Minister, and whether it is not better really for an undertaking of that kind to be managed by business men, and for the undertaking to be removed, as it were, from the ordinary political administration. In France, also, there is a great temptation on a Minister, if the Chancellor of the Exchequer wants to get a bit of money, to say, "Let us loot the railways." Well, if you cannot loot the railways, it is good for the railways and it is good for the public.

U Ba Pe: I know those arguments, of course, My Lord, but I am just thinking whether those arguments are applicable to Burma. If you find later on that in the interests of Burma you must have a Railway Board separate from the Minister in charge of railways, I am all for it, but as matters stand I do not think it is applicable to Burma yet.

Sir O. de Glanville: Would not *U Ba Pe* answer about the budget—I do not think he has—a separate budget?

Lord Winterton: Yes, I think he has. He was willing, I think he said, to consider it.

Chairman: Yes, I think he said he was willing to consider it.

U Ba Pe: Another point that I wanted to put before you was that I do not want to make the future Government of Burma with settled arrangements now, especially when I, as a Burman, know that the future Burma Government will not be one whom you can always distrust; because, whose interests are uppermost in the country? It is the the interests of the Burmese people that are uppermost. The Government will not rush into doing things that will, in the long run, do harm to their own country. You must assume that the Burmese Ministers of the day will be people who have consideration for their own country, and who will not do all sorts of silly things.

Chairman: No, we do not think that at all, but we think that they are human, like other Ministers.

U Ba Pe: They have not got the power yet, and mostly at present, the senior officials are European. Their influence and their touch with the Ministers will also have a very good effect in restraining them from rushing into silly things. That is the experience so far in Burma.

I was talking about the Financial Adviser as sketched out by Major Graham Pole. As I understand Major Graham Pole, he thinks that as currency and coinage will be under the direct charge of the Governor, apparently for that purpose a Financial Adviser is needed. Of course, the Governor is not a financial expert in any sense. He must have someone to advise him. The Finance Minister also will be a layman like the Governor. He also will, following the same argument, require an expert to advise him. Now, of course, in this country you have the permanent Civil Servants to assist the new Ministers in Office. In Burma we assume that there will be permanent Civil Servants who have some knowledge of these matters, as is the case here; but from what I have heard from Mr. Howison it appears that there is no one in Burma capable of dealing with the subject.

Mr Howison: Of course I may be entirely under-estimating the powers of the Civil Service. If so I apologise!

U Ba Pe: We have, of course, in Burma two Financial Commissioners. Anyhow, if we are to have a Financial Adviser to the Governor, as suggested by Sir Oscar, he should be adviser to the Minister also. Well, in that case, where is the necessity to reserve this subject? The Financial Adviser is the man who is going to advise either the Governor or the Minister. and there is no necessity to keep it apart in the hands of the Governor because no one can do without the advice of the Financial Adviser.

Major Graham Pole: But you might get the advice and not take it.

U Ba Pe: The Governor might not take his advice. What then? You are assuming that the Governor will take his advice and that the responsible Minister will not. That is not fair. You must apply the same principle. So we must take it that the men in responsible positions will have great regard for the advice of an expert like the Financial Adviser. Therefore, I do not see why you should have a Financial Adviser and at the same time keep currency and coinage out of the purview of the Legislature.

Mr. Isaac Foot: What did you say besides currency?

U Ba Pe: Currency and coinage. Therefore the question whether a Financial Adviser will, or will not, be necessary cannot be considered as a question apart. I think it will have to be considered along with the question as to how far reservation is to be made in regard to currency and coinage. The credit and stability of the country depends to a large extent on the policy followed in regard to these matters, and the Financial Adviser will be the responsible man to give advice on those matters. If the Governor is to act constitutionally at all he will have either to take his advice or seek advice elsewhere. He will not seek it elsewhere, I think, so he will have to take the advice of the Financial Adviser. The Finance Minister will have to do the same, so it all comes back to the same thing. If you have a Financial Adviser you can, without much danger, allow the nominal transfer of the currency and coinage and put it within the purview of the Legislature.

Then comes the other point of the Budget and the Financial Statement. Parliament will naturally require supply to carry on the administration and it is suggested that there should be a sort of consolidated fund based on some previous arrangements as regards the amount and that this consolidated fund should be kept apart from the other part of the revenue and expenditure of the country, leaving the Budget to be dealt with by the Legislature, that is to say, by the Lower House. If there must be departments reserved to the Governor and remaining outside the purview of the Legislative Council there must, of course, be sufficient funds for those departments in the form of a consolidated fund. The amount set apart for army charges and for other departments will, in the first instance, be based on some previous record. In Burma, unfortunately, we have not the figures for the military expenditure apart from what has been the charge for the whole of India, but I do not think it would be a difficult matter to arrive at a satisfactory figure. I have no objection to keeping apart such funds if you are going to have reserved departments.

Then comes the question of taxation and borrowing. The suggestion is that the Governor should be the authority to decide, and one member suggested that the borrowing should be done through the Secretary of State for India. That is rather a difficult thing. Who should be the agency through which to raise a loan? Burma, after separation, will be on a different footing from India. If she is going to have self-government, as we all hope, with certain safeguards, then her position will be analogous to that of the Dominions. I do not know whether the Secretary of State for India can be held responsible for loans in that case. We shall have to follow the same procedure as is followed by the Dominions at present.

Then there is the question of funds required in the case of emergency by the Governor. The Governor may, under certain circumstances, require more supplies to carry out the duties entrusted to him. I do not anticipate any difficulty because the Cabinet will consist of men responsible to the country, and in consultation with this Cabinet, the Governor can and will always secure the necessary funds. I do not think that special powers need be laid down for that purpose.

When it comes to taxation it raises another difficulty. If you have reserved departments, the first charge will be the fund necessary for those departments, and with the balance the other departments will be run. The Ministers will have their own programme to meet the needs of the country. The Minister of Education, for example, may desire to extend education facilities, and the Minister of Commerce to encourage local industries. In that case they will need money. If the major portion of the revenue is swallowed up by the reserved departments the Ministry will be in a very difficult position in giving effect to their ideas unless they have recourse to taxation. If the Government imposes new taxes the country will naturally ask why they should pay them, and why the same thing cannot be done with the revenue already raised. If the people find that the major portion of the revenue has been swallowed up by the reserved departments in which they have no say, there will be opposition. On the other hand, if there are no reserved departments, you can spend money, say, on the Army, and still go to the country and tell the people that more money is wanted because new things are being done and the money will be forthcoming, and necessary taxes will be accepted. If we are to do this with the millstone of reserved departments round our necks, and want more money to meet the legitimate and urgent needs of the country, the new Government will not be in a happy position. If, however, at the start there is no reserved department, as I have been suggesting, then it will be plain sailing. Everything will be working most smoothly.

Major Graham Pole: Would not the taxation be practically the same, only in the one case the Ministers would get all the blame for it instead of being able to divest a portion of the blame from their own shoulders on to the shoulders of others?

U Ba Pe: It is like this: If your income is £100 a year you may find it difficult to afford £10 in taxes, but if your income is increased to £200 you have no objection to paying £13 instead of £10 in taxation. What is necessary in Burma is to find ways and means to increase the income of the people, which the present Government have signally failed to do. There is only one remaining point with which I might deal. The Financial settlement between India and Burma is under examination. We have the Nixon-Howard Report; but the further developments I do not know yet. Whatever the result, a portion of the debt from India will have to be shouldered by Burma. I want to make it known that as far as we, the people of Burma, are concerned, there is no idea of repudiation of any debt for which we are legally liable, and morally too. We do not want to make people think that, once Burma is going to have some sort of power, we are going to repudiate the debts which will be transferred to us after separation from India.

Mr. Wardlaw-Milne: My Lord, with reference to the last words which U Ba Pe said, I think everybody will be very glad to hear the

declaration that he has made—not that I think it was probably necessary for any member of the Conference to make it. I think we are all aware that Burma is anxious to carry her proper share of whatever debt has been incurred in the joint names, if I may put it in that way, of herself and India in the past. But I just want to mention this one brief point. There is a point which will arise in that connection. I quite agree we cannot suitably discuss it, because it is a matter for examination by experts, as to what is the proper burden for Burma to carry in the future. There is, however, one large point which I can deal with in a small way. That is, that it is not only a question of what Burma is to carry, but in what form she is to carry it; because that debt has been incurred under conditions and the loans have been incurred under conditions which cannot in the future exactly apply to Burma. I do not want to carry it further than that.

The point which I rise particularly to mention, My Lord, is in connection with the beautiful picture which U Ba Pe has painted, and which he ended by describing as one that would provide for completely plain sailing in the future. Well, all I can say is that after some 20 years of experience in India of the workings of the old Councils, and some considerable experience of Parliamentary working in this country, I am afraid the life of a Minister is not quite such an easy one as U Ba Pe foreshadows.

U Ba Pe: I did not suggest that at all.

Mr Wardlaw-Milne: I think all of us here realise quite fully that there is always very considerable pressure brought to bear in cases in which taxation, or expenditure rather, is desired in a popular direction; and when he says that if there are no reserved subjects it will be perfectly simple, because it would be quite easy to go to the country and say that you require more money, and there will be no opposition, I am afraid he is ignoring the fact that the first thing that will happen will be a demand for the reduction of expenditure on such services for which the ordinary man in the street in every country does not, at first sight, see the necessity. By that, I mean important matters such as Defence. And the Ministers under the circumstances he named will be faced with that with which Ministers in every country have been faced: the continuous unpopularity of defending expenditure on services which they know to be essential for the welfare of the country, but which they are unable, to use a popular expression, to put over on the populace as being equally essential. That is the real difficulty, and it is because one realises that difficulty that, in my view, the reservation of certain subjects, at any rate in the early stages of Burma's career is absolutely necessary. Your Ministers are going to have a difficult enough time without having to face the unpopularity which they would incur if they had continually to defend, what I may call, unpopular expenditure. For that reason I am perfectly convinced in my own mind, My Lord, that you must have reserved subjects and definite powers, and a definite allocation of the money raised by taxation, in the first instance, to meet those services.

There is another word that I want to say about the question—it arises in a very similar way—the question of the railways. It is quite true that there is a great deal which appeals to me in what U Ba Pe has said as to the position in Burma *vis-a-vis* that of India or other countries with a number of different railways. In Burma it is only

a question of 2,000 miles; it is not a very big railway in itself; but it is a very large amount of money. It is 35 crores, and there is a revenue or expenditure of a crore-and-a-half, I see every year. It is practically 35 crores, and this represents half the amount of debt that Burma is likely to take over, I am told, so it is no small item. The difficulty of accepting the view that there should not be a special Railway Board is this. I am rather attracted by the argument that it is, perhaps, unnecessary to have a special Railway Board to deal with one railway, but the difficulty, I say again, is this—that you will be immediately up against the persuasion and influence brought to bear upon a Minister if he is left entirely in charge of the administration of railways. I am going to say here what I do not think that anyone else in the Conference would say, and I am not sure that it is wise to say it, but I think perhaps it will not do any harm, and that is that even with a transference to a Railway Board in India of the railways we are not free from political influence brought to bear on the management of these railways. We are not free from it even with a Railway Board, and there is nobody who has had any connection with railways in India who does not know that it is sometimes very difficult to resist the pressure. I am speaking without authority of any kind, but I feel that it is so from what one reads and knows. It is very difficult sometimes for the Railway Board to resist the pressure that comes through other Ministers and other Departments of Government. May I give a concrete example of what I mean, because let us be perfectly frank in this Conference? You may have a case in which the commercial running of the railways demands that, say, your salaries and wages should not be more than a certain amount, a certain rate, a certain proportion. You then, perhaps, get your Minister, who is engaged in connection with rates of wages, standards of living, and all these matters, who thinks that it would be desirable, perhaps to appease popular clamour, or because he thinks it is desirable for other reasons, that more pay should be given, and then you get immediately the people asking. “Is it going to be a burden put upon the railways which will make them unremunerative?” Then you get the clash of interests. You get that already in India, where they have a Railway Board. Now, the danger of not having a Railway Board, to my mind, is that you may get that very much accentuated. That is my only argument against that with which, at first sight, I am rather inclined to agree—U Ba Pe's statement that, in view of the smallness of the distance of the line to be managed in Burma, it does not seem necessary at first sight to have a Railway Board. To put it in a sentence, I would say that it may not be necessary to have a Railway Board, but it is essential in your own interests to secure that the railways should be managed on commercial lines, and further, to ensure that they will not be made a plaything of politicians in any shape or form, and that, for the benefit of Burma herself, they will be able to yield proper interest and take their proper share of the burdens of the country.

One last word I want to say about the question of loans. I was very glad to hear what U Ba Pe said. I think it is quite true that, in future, the position will be different, and that the loans that Burma raises will have to be raised probably under the Colonial Stock Act or in some other way of that kind; they certainly cannot be raised as

they have been raised in the past; but for Burma to raise these loans makes it absolutely essential that no mistake should be made at the beginning. There is nobody round this table who is not as well aware as I am that the slightest suspicion of Burma's credit from the very beginning will affect her borrowing powers for years to come, even after perhaps, the day when that suspicion is unjustified. It is essential that no mistake should be made at the beginning, that Burma's credit should be preserved as good as, or better than, it is to-day; and that means, to my mind, that you certainly must have absolutely expert financial advice.

I am not so interested as to whether the advice is given to the Governor or the Government. It must be given to both. They will both want guidance on the matter although I consider it fundamental that the power should be in the hands of the Governor in the last resort. That he should have the power to intervene if he has the slightest suspicion that some financial operation is being undertaken which is going to affect the credit of Burma is, to my mind, of first and paramount importance in questions of finance. I think that the Financial Adviser, if his advice were refused by the Government, should certainly be in a position to require that the Cabinet should reconsider the whole matter with the Governor himself. The whole thing would have to be reconsidered, and reconsidered I hope, before any publication of any kind in the Legislature or anywhere else took place. The appointment of a Financial Adviser is to my mind essential. Both the Governor and the Government will require financial advice, not once a year, but from day to day.

Mr. Harper: I want to say only a few words on the question of the separation of railway finance from general finance. I do not know that it is necessary to say much after what has been said by Mr. Wardlaw-Milne and others, but there was one point raised by U Ba Pe about which I am not quite clear. I understood him to say that he did not think it necessary to separate the finances as was done in India because India was concerned with a complicated system of railways whereas Burma has only one railway. Perhaps he did not mean that.

U Ba Pe: No

Mr. Harper: There is a difference between railways and most other departments of Government. A railway is essentially a commercial concern. I think the Acworth Committee put the point very clearly when they compared the running of railways under a non-separate system of finance with trying to run a great commercial business on the assumption that it went out of business altogether on the 31st of March every year and started again *de novo* on the 1st April. There is also the fact to be considered that separation is not only for the benefit of the railways but also for the benefit of the general finances of the country. Railway finance has very considerable ups and downs and that may seriously affect the general Budget. When the Acworth Committee reported, and the Legislative Assembly discussed the Report and passed a resolution on 20th September 1924, the main object of separate railway finance was given as this:—

“ to relieve the general budget from the violent fluctuations caused by the incorporation therein of the Railway estimates and

to enable railways to carry out a continuous railway policy based on the necessity of making a definite return to general revenues on the money expended by the State on Railways."

Of course the railways do contribute quite considerably to general revenues. I think that resolution suggested that the contribution should be 1 per cent on the total capital at charge. In Burma that would be on 35 crores. Lord Winterton said he had not present in his mind any other countries which had experience of separating their Budgets. Japan is one and I would like to read a short extract from the official report of the Japanese Government dated May, 1919. That report says:—

"In consequence of the drastic renovation effected in the financial arrangement in 1909 the railway account has been a special account entirely distinct on its essential features from the general account. It is needless to add that this financial independence has given very great conveniences and facilities in the management of the Imperial Railways as indeed it has made the railway finance one of special character among all the special accounts created by the Imperial Treasury. In short, the change has made the railway finance a financial agency specially adapted for the management of railway business."

I think Burma would greatly benefit by taking advantage of the experience of India and Japan and other countries in the separation of their railway finance from their general finance.

Lord Winterton: I am told South Africa is another example.

Mr. Harper: If that is accepted it seems to me that the Burma Railways must be controlled in a different way from the other departments of the Government, and I do not see how one could avoid some statutory authority, on which, of course, the Government would be represented—something perhaps after the nature of the Port Commissioners. It is a special department and must be regarded as needing special treatment in that way.

Mr. Isaac Foot: I have just one question raised by U Ba Pe. It was raised on Friday, and raised again, I understand, this morning, and in the speech he made just now he made further reference to his proposal, which, I gather, is to wipe out reservations and have a Minister who can be responsible in a certain sense to the Legislature as well as to the Governor. I accepted generally U Ba Pe's position that it is most desirable that what is done at this Round Table Conference shall be such as will gain the approval of the people of Burma. That is the desire of us all. It is not of very much use contemplating a new condition of things in Burma unless we can be assured that the Constitution starts with the goodwill of its people. No constitution even if it were devised by archangels sitting around this table—and we do not claim to be those—would have very much chance in Burma, assisted though it might be by the powers of the draughtsmen that we have at Westminster, unless it commanded the goodwill of the people. I approach the matter, My Lord, from the standpoint that the safeguards we are suggesting do not show any reluctance upon our part to release power. That is not what dictates the desire for safeguards at all, but it is our overwhelming ambition to see that what is set up will not break down by its own weight. I hope my friends on the other side of the table will accept this from us, that we are

looking primarily at the interests of Burma in the restrictions suggested. I would like U Ba Pe to think over again this suggestion about the Minister who is to have this dual capacity. He says that this would give facility for discussion and education, and that it is difficult to see how, in the course of some years after the transitional period has passed, Ministers can take over responsibility unless they have had such education. I think that is a valid argument. I accept the argument that there should be facilities for discussion and education of Ministers in their responsibility; but I think we may assume that the Governor will do all he can to keep in touch with Ministers and with the Legislature in regard to his reserved subjects. I think he would have regard to public opinion, and it would be his business to see that those who are the prospective Ministers of the future in Burma are trained and become acquainted with the subjects even that are reserved.

My Lord, I see no reason why that should not be included within the Governor's Instructions, but, taking the essential proposal, I do not see how Parliament could agree to the division of responsibility that is suggested by U Ba Pe. This responsibility must be with Parliament; that is the essence of reservation; and if the Governor is thus responsible to Parliament, then the Governor really must have full choice in the selection and the appointment of the persons who have to administer for him. I think U Ba Pe's proposal, even as it was mentioned in a sentence or two this afternoon, involves necessarily a division of responsibility, and I really do not understand the position of the Minister who has to be at the same time responsible in some sense to the Legislature and responsible to the Governor. It would be a division of responsibility which I think would be unconstitutional. I do not think it would be tolerated by Parliament, and I think it would be impossible administratively. I think, too, that it would continue one of the most objectionable features, and that is dyarchy. You will have persons in the same Government responsible to different authorities. If U Ba Pe will consider these objections that weigh with us, I think he will see that we feel that where Parliament is responsible, it is no good mitigating that responsibility. In the end it would not lead to the advancement of his cause, but to confusion, and the greatest enemy of constitutional welfare in Burma would be this confusion of responsibility.

U Ba Pe: May I say a few words in reply to Mr. Foot? I should like to remind you, in the first place, that we are thinking of a constitution which, ultimately, will confer on the people full responsibility, and the only difficulty is that during the period of transition. Under my proposal take, for instance, the Army. The Minister in charge of the Army will be responsible on the one hand to the Legislature, and on the other hand to the Governor. That will be the anomalous position. The position I have in mind is this: in the Legislature there will be Members of the Legislature, some tabling resolutions relating to the Army Department, some putting questions relating to the Army Department. Now the Army Department to my mind can be divided into two parts: one I will call the Burmanisation of the Army, and the other one, the actual control and use of the Army. If the resolution or question relates to the Burmanisation part of the subject, it will be allowed in the Council, there will be discussion, and whatever

decision is arrived at will form a policy for the Cabinet to follow. But if it relates to the other part, the use of the Army, then the Governor will have the power not to allow this resolution to come before the Council or any question relating to that can be stopped, and then the Council would have no say in the matter. But the Minister in charge will be learning all the time on the one hand that part of the Army which is Burmanisation; he will be having day-to-day administration of that, taking part in it himself and carrying out the policy of the Legislature. On the other hand, he will be also taking part there, but learning there all the time from the technical advisers and others in charge of that Department. So that I do not see any difficulty there, though there is this anomaly, that he is not responsible for the whole Department to the Legislature. I hope I have made myself plain.

I do not know whether it is beyond the possibility of the expert draughtsmen here to draft new clauses to cover that position. The Governor will be responsible for the Parliament, and for the part of the Army matters where he is responsible to the Parliament, he will have full control and the Legislature will have no say without his permission. I think I have made myself clear.

Mr. Isaac Foot: Now, supposing that that Minister who is appointed by the Governor, and who for a part of the work would have to be responsible to the Legislature and for a part of the work to be responsible to the Governor, comes up against some question which arises which may be common to both parts of his duties, it is very difficult to take a Minister and to divide his duties into these separate and watertight compartments. Supposing that there is misconduct upon his part, affecting, it may be both parts of his duties. For that misconduct he will be responsible to the Governor, and in respect of such misconduct he could be challenged upon the floor of the House of Commons by a question put there.

U Ba Pe: But you cannot punish a man twice for the same offence.

Chairman: No, but if two people have to punish him it becomes difficult.

Mr. Isaac Foot: But does not U Ba Pe see that there would be that difficulty—that you cannot build a wall between one and the other where you are dealing with human beings and dealing with general questions of conduct and good faith and so forth, and how impossible it would be for Parliament, or for the Secretary of State in Parliament, to accept responsibility for the conduct of that man; or does he know of any duties that have been so discharged by any Minister in the history of any Constitution?

U Ba Pe: I do not know whether Mr. Foot wants an answer from me or not.

Mr. Isaac Foot: I do not know. I only put the question that was in my mind—what precedent there was for U Ba Pe's very important proposal.

U Ba Pe: Precedent! This is a new thing altogether. It is an experiment which I am suggesting. There cannot be any precedent for this.

Chairman: I like to disregard precedents; I have said so often.

U Ni: Regarding a Financial Adviser, I do not know how long he will continue operating in the country, but the sooner we can proceed without him the better, I think. That is one point which has never

been touched upon. When it was asked who would appoint him, I understood Earl Winterton to say that the Governor would appoint him. I quite agree; but there is another aspect: who will remove him in case he does not work well with the Finance Minister? I would rather put it in this way—that the power of appointment should be in the hands of the Governor, and the power of removal should be in the hands of this responsible Minister.

Chairman: He will have a rather unhappy life that way.

U Ni: That is only if we do want to curtail the powers of the Governor and if we do not want to withdraw that power, because I understand that that power is kept in his hands to secure that we get the best man. I quite agree, but as for the power of removal, that is not a novel procedure, because I have come across similar cases in other constitutions in other countries, where the power of appointment is with the Crown, perhaps, and the power of removal is with the people or Legislature.

As for the Railway Board, I quite understood that when Lord Winterton suggested a Statutory Railway Advisory Board he suggested that because he knows that the railway is a golden goose which, if properly dealt with, will lay golden eggs very soon. In order to do that, in order to produce as many golden eggs, I should say, as possible, he wanted to have a separate body to look after it, and direct their attention wholly to this matter. Well I am quite sure that any future Government will face this question with an open mind, and I should say it is highly probable that this suggestion will be taken up. That is all have to say.

Tharrawaddy U Pu: My Lord, I believe we are now treading on the danger zone. There has been a lot of talk of dual control, which means dyarchy—a word hated by all the people of Burma. I believe Sir Oscar would be sailing in the same boat as the people of Burma when I say that the word “dyarchy” is condemned by all the people of Burma, including Sir Oscar. We have been talking about Ministers who would be responsible not only to the Legislature but also to the Governor of Burma. That is nothing but dyarchy. Such a thing could only exist in a dyarchical constitution, in dyarchical reforms which would not be acceptable to the people of Burma at all. I beg to ask you all to consider very seriously in order to do away with the word “dyarchy” and try to introduce another constitution in Burma. If there is a hint that the next constitution will be, during the transitional period, a sort of dyarchy, you can take it from me that this will not be accepted by the people of Burma and you will have to face a lot of trouble in Burma. Therefore, my friend U Ba Pe brought forward a new proposal to the effect that all the Departments of the administration of Burma should be transferred to the new Burma Legislature, and that also in certain Departments or certain aspects of certain matters, if the matter is one to be left at the entire discretion or disposal of the Governor, the Governor may be asked to exercise his right of veto on every decision that the Legislature had made.

Of course I know that you have in mind that certain subjects ought to be reserved. Well, if there are certain subjects which you think ought to be reserved and the Governor has the right of veto let him exercise his right of veto freely on those subjects, but as regards other

points the Governor should act, as the Governor of every self-governing country acts, on the instructions of His Majesty and according to the Constitution. He must, in regard to subjects not reserved to him, act on the advice of his Cabinet. If you wish to transfer only certain subjects to popular control and reserve other subjects entirely to the Governor-General you had better accept my friend U Ba Pe's suggestion and allow the Legislature to discuss every subject relating to Burmese administration and to arrive at considered decisions, which decisions should be communicated in due course to the Governor, leaving the Governor to exercise his right of veto freely on reserved subjects; then, I am sure that the people of the country will think twice or thrice before they attempt to pronounce their judgment either for rejection or for acceptance of the new Constitution. If you do not do that I am sure the people will not think twice before rejecting the Constitution and we will have to face trouble in Burma. Therefore I beg of you to give your concentrated thought to this matter. When we came here we had a great hope of achieving responsible government. Now we hear that you consider that there ought to be certain safeguards in a Constitution which will fall short of full Dominion Status.

Chairman: What did you say your instructions were?

Tharrawaddy U Pu: Not to accept anything short of full Dominion Status.

Chairman: Then you did not come for free conference, but bound by your instructions?

Tharrawaddy U Pu: We have instructions, but we have to exercise our own common sense, too. We were taking part in these discussions and we stopped until we got the pronouncement from Your Lordship and Lord Lothian. When we were told by Your Lordships that the declaration made by the Prime Minister on two occasions would apply to Burma, and Burma would get responsible self-government with certain safeguards, we thought that such a statement ought to be enough to justify us in continuing the discussions we had begun as soon as we arrived in this country. Since we resumed our discussions a great deal of talk has taken place with regard to dyarchy. That is a very dangerous word, and we are now treading on dangerous ground. If you can bring out a scheme which cannot under any circumstances be taken as dyarchy, I think there is great hope of the people of Burma accepting such a scheme. Otherwise they might think that the separation of Burma from India would mean, after all, dyarchy only for Burma, and on this reasoning they might say that they would rather remain within India, where the federal constitution can be introduced within a year, or two years, or three years. Whatever that might be, they might agree to sail with the same boat as the Indians, either to sink or swim together. I am afraid of their being decoyed away by things which are put up to them by other parties. In Burma there is a strong party who might say, "These people (ourselves) have gone to England to attend the Conference, and they have come back, not with responsible government, but with dyarchy." They might tell the people that, and the people might decide to remain within India, so that the Constitution which may be evolved as a result of this Conference will come to nothing.

Chairman: Would you prefer to remain a Province of India?

Tharrawaddy U Pu: I think the time is not yet ripe for me to make a pronouncement.

Mr. Isaac Foot: The system proposed for India is responsible government with reservations. What is the difference between that and the system proposed for Burma?

Tharrawaddy U Pu: I am simply stating—I am not threatening—that there must be no touch of dyarchy in the new constitution.

Mr. Isaac Foot: But who has mentioned dyarchy?

Tharrawaddy U Pu: Well, I mean to have Ministers responsible to the Governor and to the Legislature is nothing but dyarchy. You say it is during the transitional period; but you have not defined your transitional period. The transitional period may be a thousand years; who knows? That is the trouble.

Mr. Isaac Foot: But we have not made that suggestion of a Minister being responsible at the same time to the Legislature and to the Governor.

Tharrawaddy U Pu: You cross-questioned U Ba Pe on the same lines I think. I mean a Minister might be responsible in one part to the Governor, in another part to the Legislature, and we have had it suggested that certain subjects must be left to the entire control of the Governor.

Chairman: That is quite different from the other.

Tharrawaddy U Pu: I do not see the difference, My Lord. I am very sorry; I should like to be enlightened on this point. Certain subjects are reserved to the control of the Governor and certain to the control of the Legislature. If that is not dyarchy, I do not know what dyarchy is. Dyarchy means dual control.

Mr. Isaac Foot: No, this is responsible government with reservation.

Major Graham Pole: And with regard to reservation, you suggest the Governor should exercise his veto freely. We hope he will not.

Tharrawaddy U Pu: No, there must be an understanding like this: in the case of the transferred subjects the Governor shall act on the advice of the Cabinet as in the case of the self-governing Dominions; but in the case of subjects which you now propose, or which are proposed, to be reserved, let him exercise it freely; but he will get the considered opinion of the people's representatives through the Legislature. He will be in a better position. If he likes to accept the decision or resolution passed by the Legislature, then he would be very much fortified by the views of the people of the country in any action he might take. Even with regard to the question of Defence, let it be discussed; allow the Legislature to pass a resolution on either question, either to go to the right direction or the left direction. If the Governor would agree to go to the right direction, then he would be fortified by the opinion of the people of Burma; and you here, that is His Majesty's Government, will not be able to sit upon him, because he will be fortified then by the people's voice. Therefore, I say, let him exercise the right of veto in respect of reserved subjects as freely as possible; but on the other side, in respect to the transferred subjects,

let him not do that. That is my humble suggestion. Of course, that is a very important thing, My Lord.

Lord Mersey: But that is dyarchy, surely.

Tharrawaddy U Pu: That cannot be dyarchy. For instance, in Burma you will have responsible Government. Of course, either under dyarchy or under self-government (I mean under the Dominion laws), the Governor is always entrusted with the power of veto, but the convention in self-governing countries is that he is not supposed, ordinarily, to go against the advice of the Cabinet. The Governors are given power to veto and to certify as a matter of usage. In the present case let responsible Government be given to Burma; let them have their say, and let the Governor be given the power of veto and of certifying, but give him instructions that only in reserved subjects is he allowed to use the power of veto as freely as possible, and on the transferred side, he must act in accordance with the views of the Cabinet, as the Governors of self-governing Dominions are doing. That is my humble suggestion.

Major Graham Pole: Supposing you touched on finance in a way that he thought, for good reason, would imperil the stability in the eyes of the world of Burma, financially?

Tharrawaddy U Pu: Sir, this is very dangerous work; reservations on the ground of financial stability.

Major Graham Pole: I am only trying to get what you mean.

Tharrawaddy U Pu: Under cover of financial stability, if the Governor wishes to interfere with the Legislature or with the Finance Minister, he may be doing as he likes. That is where the personality of the Governor comes into importance. Unless you send a Governor with a broad mind he may go against his own Cabinet, and might interfere with the Finance Minister under the cloak of financial stability. That is a very dangerous thing, Sir.

Major Graham Pole: But, as you suggest, in none of the Dominions would he do that without some very strong cause, and I assume he would not do it here.

Tharrawaddy U Pu: I do not follow you, Sir.

Major Graham Pole: You yourself suggested that in any Dominion where he might have that power, he would not do it without some very strong cause.

Tharrawaddy U Pu: Certainly.

Major Graham Pole: And that is what we assume here.

Tharrawaddy U Pu: Let us see; that is all.

Major Graham Pole: We have not got the Governor yet nor the Constitution.

Tharrawaddy U Pu: Let us see what the next Governor will do in Burma.

Now, you talk about a Railway Board, and you say that there must be a Statutory Railway Board. Now, instead of that, will you not agree with me? This is my personal opinion. Let there be a Railway Adviser to the Minister who would be responsible to the Legislature. Will you not all agree to that instead of having a Board which would cost a lot of money? Will you not agree to the next Government having the assistance of a Railway Adviser? He would

advise the Minister who would be responsible to the Legislature. I think that would be quite fair, and if the Governor and the Cabinet would work with good will, as is necessary, I am sure there will be no friction at all, and I think you ought to be satisfied with that.

Mr. Wardlaw-Milne: May I say, if Tharrawaddy U Pu would allow me to say it, that, as I said before, I personally would accept anything that would ensure correct and proper management; but under the suggestion you have made you are imagining a very powerful Minister, full of good will and yet with strength of character. We are rather imagining exceptional people in the position of Governors and Ministers, and so on. I think we must take ordinary people. Do you think that would secure what we both want?

Tharrawaddy U Pu. Let us assume everybody is a reasonable man. If you have distrust or suspicion of another person, then you will not be able to administer any country. Let there be give and take. Let us trust you, and we want you to trust us, too.

Mr. Isaac Foot: Would Tharrawaddy U Pu deal with the separation of the Railway Budget?

Tharrawaddy U Pu: Ah, that is a great thing! To be frank if you want some money, you must be able to get something from your Railway Budget. If the Railway Department wants some money it must be able to get it from the common revenue, too. Why do you want to keep them apart? Allow us, the people of Burma, to have a joint Budget to start with, for five or three years. I am sure the next Cabinet will not allow the Railway Fund to be swallowed up for other purposes than the Railways—I am sure of that—but let us work on trust, let us have confidence in the new Members of the Cabinet. I am sure the Minister will work satisfactorily.

Mr. Isaac Foot: Have you considered that the party which can promise no railway fares is the one that is likely to be returned to power?

Tharrawaddy U Pu: Oh, no, no; Burmans are not such fools as that. We must know the income and expenditure. The masses of the people of Burma are very intelligent compared with the ordinary masses of other countries. We have told the people, "When you get Home Rule your taxes will remain where they were."

Lord Mersey: They will go up!

Tharrawaddy U Pu: Oh, no; we would not dare to do that. If we increased the taxation I am sure the Government would be dethroned the next day.

A lot of subjects have been dealt with by my friend, Major Graham Pole. When things were said by Major Graham Pole I felt very reluctant to stand up against him; but there are a lot of things on which I cannot see eye to eye with him. I do not think, however, that this is the right moment to take up these matters. I think I might rather wait until the report stage is reached in connection with those reserved subjects, or transferred subjects, as mentioned by Major Graham Pole.

Chairman: May I interrupt you for one moment. I think it is better, if you have got a view, to express it at once so that I can deal with it in the Report. It is a pity that you should wait till after the Report, I think.

Tharrawaddy U Pu: My Lord, I have consulted with my friends also, and we did arrive at a decision that it is not the right time to tackle this question, since all these reservations and the list of transferred and reserved subjects, having come from my great friend, I may say—I do not want to commit others—I feel very reluctant to stand up against him. I should like to agree. As it is I cannot agree. I would rather wait.

Chairman: I think it really would be much better to state your case now.

Tharrawaddy U Pu: If I tackle him I might provoke other friends to get up and say all sorts of things. That would be detrimental to my case.

Chairman: I must say Tharrawaddy U Pu, that I do not think you ought to wait until the Report is presented. If you are going to state your case it is only fair to me that I should hear it now. I cannot draw up a Report and then be told afterwards "Oh well, I wanted to add something else." I think you ought to state it now.

Tharrawaddy U Pu: As I have told Your Lordship repeatedly I cannot agree to the list of reservations proposed by Major Graham Pole. We thought that the reservations would be simply on the lines of those you made in the case of India. There are only a few reservations in the case of India, whereas for us you are going to impose a number of reservations to which I cannot agree. That is my humble statement. Personally I cannot agree to any reservations at all. During the transitional period you have proposed certain reservations for India but for Burma you have proposed a large number of subjects to be reserved. Therefore, without going into the details of all these many subjects, I would lay my protest against the proposal. I will be content with that remark.

Chairman: Well Tharrawaddy U Pu, I do not know which subject is reserved in your case that is not to be reserved in the case of India.

Tharrawaddy U Pu: I will supply Your Lordship with a long list in writing.

Major Graham Pole: I do not think there is one.

Tharrawaddy U Pu: I will supply you with a long list to-morrow I will supply it to Your Lordship and to my friend too.

Lord Lothian: I only want to say just one or two words. I have been much impressed, if I may say so, by the admirable character of the discussion this afternoon on a very difficult point and I only want to emphasize some of the things which Mr. Wardlaw-Milne, Mr. Foot and other people have said. Reservations and safeguards are not proposed because we want to restrict in any way the development of full responsible government in Burma, but because in the light of experience in the Empire and all over the world, some reservations and safeguards are essential in the interests of Burma herself. I would ask you gentlemen just to think over the matter and, when you get back to Burma, to tell the Burmese people something about what has happened in the rest of the world in the last two years. We have seen this very experiment of responsible government of a parliamentary type started in one country after another.

It is a new form of government. There is no experience of that form of government in Burma in its three thousand years history. I accept everything that Tharrawaddy U Pu says about the immense superiority of the Burmese politicians, but they are human beings, just like everybody else. If you look all over the world you will find that this experiment has been tried, and has only succeeded after a considerable period of experiment, and some setbacks which have often been disastrous for the people concerned. I was in China in 1911, and saw the Chinese Parliament set up and functioning, with the highest hopes of the Chinese people, but think what has happened in China during the last twenty years. Look at Europe: self-government was given to practically every country in Europe, after the War. There has been a dictatorship in Spain, and you have now a form of government there, the final character of which has yet to be seen. There is a dictatorship in Czecho-Slovakia and in Poland, a Fascist form of government in Italy, a tremendous dictatorship in Russia. Even Germany, one of the most advanced of countries, is not functioning today on a parliamentary basis. We have one country after another going over to a dictatorship, or, what is more troublesome, having the control of its finances by other people, for example, Austria and Hungary. This matter of getting on to a stable responsible form of government is not an easy thing, and you gentlemen, some of whom will no doubt be responsible Ministers in the new Burma, will find that the safeguards and reservations we are suggesting are really in your own interests, to enable you to form a government which will endure; one which will enable you to win the confidence, in the first place, of the Burmese people, and in the second, of the foreign investor, and you will require to have both. I beg of you to look at the matter from that point of view, and not with the idea that there may be some reluctance on the part of the British Government or the British Parliament to hand over full powers at the beginning.

Chairman: I agree with Lord Lothian. It would be a great mistake to look upon these reservations and safeguards as if they were exhibitions of the unwillingness of the British power to let loose its control. They are conceived by people who, whatever you may think of us, have had a long experience of parliamentary and other forms of government, not only in this country but elsewhere. If we think that, in the general interests of good government in Burma, certain reservations and safeguards are necessary, we do so after a great deal of experience and after much reflection.

The point has been made by Tharrawaddy U Pu that there were all sorts of reservations made in the case of Burma which were not made in the case of India. He is going to circulate a paper on that subject, but I submit in advance that there will be nothing in that paper to be circulated.

On minor but important points, I was glad to hear the strong objection of all the Delegates to any discrimination as between the different sections of the population of Burma on these questions of commercial interest, and the complete readiness to accept reciprocity in these matters. That was very satisfactory. Again, on the question of minorities, that has been a good deal canvassed and discussed, and much has been said by some of the gentlemen on my left about the

tolerance of the Burmese and their dislike of anything in the nature of persecution or unfair treatment of minorities. Again I am quite ready to accept that as their characteristic, but that is not quite the point. The question is what the minorities think. But it seems to be fully worth while on the part of the majorities who are majorities to say: "Very well, we concede to the minorities enough to satisfy them, because we want this country to be run and to start its constitution with the largest possible measure of agreement of all parties." That, I think, is the real basis of the suggestion which has been made about the protection of minorities.

Then just one word about the big main question that we have been discussing, because on a great many of these subjects at this hour I think I need not say much. If, arising out of the nature and necessity of the case and the conditions existing in Burma with the Army and so on, there obviously must be some subjects that are not to be fully transferred to Burma, the question as to exactly where that division of authority or responsibility would lie between the Governor and the Ministers, is admittedly a very difficult one. On the one hand, it is very easy to say: "Let the whole thing rest with the Governor"; or, on the other hand, to say: "Let the whole matter rest with the Ministers responsible to the Legislature." Anybody, I might say, can form an opinion in that way, but the problem to which we have been addressing ourselves this afternoon is much more difficult. We have given a very careful consideration, I think, to that question, which is, what exactly is to be the division between them.

I am quite prepared to assume reasonableness, both on the part of the Governor and the Ministers. It is quite easy to say that some of these arrangements might not work very well. On the other hand, given good will on both sides, I think it is quite easy to see that things might work very well indeed; and if some gentlemen have been alarmed by the idea that these powers in the hands of the Governor might be very considerable, I think we ought to be guided by this general principle, that the whole object is that as much responsibility as possible should be transferred to the Ministers responsible to the Legislature, and that these powers of the Governor should be used in the main—I am talking of the safeguards—in the last resort. Very likely, let us hope, they might not be used at all; but there they are, and if they are there, I think you will also agree with me that the Governor should be furnished with the power to exercise those powers if necessary. It is quite obvious it is no good giving illusory powers to anybody. But, from some of the speeches I have heard from my friends on the left, I do not think they have all of them fully realised the very great range of subjects that will be managed in the future by the responsible Government in Burma. That, I think, is a very important matter indeed.

Then, as to the position of the Governor as regards safeguards and as regards the reserved subjects, U Ba Pe has made a very interesting and important suggestion. It has been dealt with by way of reply by Mr. Foot. But is not this one of the cardinal principles of good government, that it should be perfectly clear in any State where the responsibility lies? After all, we are always saying things very often go wrong because there is divided responsibility. To put it in the

vernacular, you want to know who is the responsible head in order that you may hit it if things go wrong. I will not deal at great length with U Ba Pe's suggestion, but, if he will allow me to say so, his suggestion appeared to be that these Ministers should act together on these subjects, and all subjects should appear to be transferred, though in reality these Ministers should be responsible to the Governor and at the same time responsible to the Legislature. I really suggest to him that in the interests of good government the best thing is to mind your own business. That is one of the things which Plato has laid down for the good rule of Governments, when he says in his "Republic": "Do your own business." I think I quite appreciate U Ba Pe's argument. Is it not essential that responsibilities, whatever they are, should be laid down clearly and should be clearly distinguished, and that we should know where the Governor is responsible and where the Ministers are responsible? I cannot help thinking that if what U Ba Pe suggests was done, it would not be very useful to the good government of Burma.

I do not think we need be very much afraid of the word "Dyarchy." I think it is a general word which Tharrawaddy U Pu is inclined to apply to all kinds of dualism in government. If you like, let it die with its old associations, and call it by any other name you please—dualism, if you like. Kill dyarchy and enthrone, if you like, for a short time, dualism. Anyhow, do not let us be frightened by a phrase or word from laying down, to the best of our ability, what we all think is best for the constitution of Burma in the future.

Well, gentlemen, on that I think I shall be able to report anyhow a considerable degree of agreement.

(The Committee adjourned at 5-15 p.m.)

Proceedings of the Twelfth Meeting of the Committee of the Whole Conference, held on Tuesday, the 22nd December, 1931, at 11-15 a.m.

HEAD 4.

THE FRANCHISE—continued.

Qualification for the Franchise and the question of the definition of "Citizenship."

Major Graham Pole: My Lord, I have been studying this document of the Separation League, which has, I think, the definition of "citizen" that U Ba Pe and others wish to have inserted in the new constitution for Burma. This definition is mixed up, and depends to a great extent on the question of domicile.

Domicile is a most fascinating subject, especially for lawyers; and I can quite see that if it were introduced into the Burman Constitution, the lawyers, at any rate, would have a good time; and if any politician who was a lawyer lost his seat, he would be kept going for quite a long time with cases in the Court arguing questions of domicile. Domicile is purely a legal matter, and it is one of the legal matters on which you can have any amount of discussion.

Domicile is of two kinds: the domicile of origin and the domicile of choice. The domicile of origin, of course, is acquired at birth, and the domicile of choice is acquired by the voluntary abandonment of the country of origin by the individual and taking up a permanent abode in a new country. Of course a woman who marries takes her husband's domicile. But you cannot have more than one domicile at the same time. A domicile has no necessary connection with nationality, nor necessarily with residence even. The domicile of origin can never be completely lost, although it may be in abeyance for a time. The difficulty about this whole question of domicile is that it all depends on the intention of the individual concerned, and you cannot tell what that person's intention is without getting inside his head, which is a very difficult thing to do. A change of residence in itself, however long that residence might be, is not enough.

The best definition I have ever heard given of domicile was the one that I got thirty-five years ago in Edinburgh University from the Professor of Scots Law there; that a man's domicile is the place where he would naturally be if there was no special reason for his being somewhere else. I think as a definition it is perfect. But it follows that to take the criterion of domicile to determine question of franchise would be extremely difficult in practice, and it would discriminate severely against important sections of the community.

Another quite serious point is that it would be quite inconsistent with the general practice throughout the Empire. In Great Britain, in Australia, in Canada, in South Africa, in New Zealand and Ceylon, practically the question of franchise is decided broadly on the question of nationality plus residence.

There would be three great and serious difficulties in dealing with this question of domicile in regard to the franchise. The first is, that there would be difficulty in practice of determining what a man's domicile is. That difficulty would, of course, appeal to the lawyers, and I do not know whether it is because we have so many lawyers on the other side that this fascinating question has cropped up. Personally I should love to practice in the Burman Courts if this were to be made a test of citizenship. One would never be out of a job. But the second difficulty is this, and this is a very serious difficulty. It would disenfranchise many who, at present, have the vote, and that always is a serious difficulty; to begin to take away the vote from people who already have it.

The third difficulty is that it would deprive many British subjects not born in Burma of ever having a vote, although they might spend long periods of their lives in Burma and might have very large interests in the country. One might possibly have, as an alternative, a period of residence that might be fixed—one year, two years, or whatever might be fixed—but there is one fundamental thing, I think, upon which we should all agree, that no one should be a citizen of Burma unless he has also the status of a citizen of the British Empire, unless he is a British citizen. The Irish Free State, I know, defines citizenship in terms of domicile, but one must remember that the definition in the Irish Free State is a temporary one and may be altered by the Irish Free State Parliament at any time, and there is just a possibility that it might be altered. In this country, for instance, any one, a Greek, an Austrian, a Swede, might acquire a

British domicile without acquiring a British nationality at all and without ever being a British subject or having any intention of being a British subject.

Then if you look outside the British Empire you find that in other countries—take, for instance, the United States of America, Denmark, Germany, almost any country you look at—the criterion for franchise is, speaking broadly, nationality plus residence, and the only country, so far as I know, that does not accept that is Austria. Last year there was an international conference at The Hague, and amongst other things, they were considering the codification of international law on this question of nationality, and there was, I am told, practically universal agreement amongst them in rejecting domicile as a basis of nationality.

Now, if throughout the world there is that practically universal opinion it would seem a pity that Burma should adopt for the franchise a criterion which practically every country in the world has agreed to reject. What I think we should endeavour to do is to agree to some fundamental principle, and agree that only British subjects, subjects of the British Empire, should have Burmese citizenship, and that broadly it should be based on the question of nationality in addition to whatever residence qualification was decided on.

One must bear in mind that the Burman Government will have control over immigration, and that it is possible for them, taking the principle of reciprocity to deal with this question of immigration and with the question of citizenship in Burma in that way.

Then there is just the possibility that the question of further qualifications might be explored, possibly by a Franchise Commission appointed to consider the matter on the spot, if that were thought to be an advisable way. Of course, you have to remember that that would cause a considerable amount of delay, and in that case possibly the existing qualification might be kept for the first election and the matter be explored after that; but I think fundamentally we might, subject to what U Ba Pe and the other members who are responsible for the proposed definition of citizenship may say, all agree on the broad principle that British nationality plus residence—whatever might be decided on in the way of residence—should be the qualification for the franchise.

I throw out these suggestions so that we may get the matter further explored by the Conference.

Sir O. de Glanville: I can express my views very briefly. I am in absolutely entire agreement with Major Graham Pole.

U Maung Gye: My Lord, I just want to meet one point raised by Major Graham Pole. Major Graham Pole seems to assume that a British subject has the right to equality of treatment in every part of the British Empire. In point of fact his assumption is not justified. I have no less an authority than General Smuts himself in support of what I say and I should like to read from a memorandum by him.

Chairman: From what book are you reading?

U Maung Gye: I am reading from "Nationality within the British Commonwealth of Nations." In a memorandum submitted

to the Imperial Conference in 1923 General Smuts stated the position very clearly. This is what he says:

"There is no equality of British citizenship throughout the Empire. On the contrary there is every conceivable difference and it is quite wrong for a British subject to claim equality of rights in any part of the Empire to-day to which he migrates or where he happens to be living. Each constituent part of the Empire will settle for itself the question of citizenship. A common kinship is a binding link between the different parts of the Empire but each separate constituent part will demand the right to fix the terms of citizenship which the people will derive from the authority of the State in which they live."

And again it was stated on the authority of the Secretary of State for Home Affairs at the same Conference that:

"Imperial nationality is indivisible; local citizenship and the rights and privileges thereof may be diverse."

It is quite clear, therefore, that Imperial nationality is quite distinct from local citizenship. A British subject belonging to one of the States within the British Empire may have his own special rights in the State of which he is a citizen but he may not have the same rights elsewhere in the Empire. As regards the definition of citizenship, I will leave that to U Ba Pe.

Mr. Haji: With reference to the speech which we have just heard from Major Graham Pole, though apparently his remarks were lucid, they were really very complex and intricate—too intricate to understand. He began by talking about British nationality, but I am sure, My Lord, that with all his legal knowledge on the matter he will find it very difficult to quote a single text book on English law which talks of British nationality. There is no such thing. We are all British subjects, but nationality, and particularly citizenship, is different in those States where historical conditions have been different and have followed lines of progress different from those on which history has taken the people of England and in a sense the people of the Empire.

Moreover, as U Maung Gyee rightly pointed out, instead of there being a British nationality, there are really, within the Empire, as all modern writers on the subject have made quite clear, two citizenships, the Imperial one and the local one. We also know that so far as British law is concerned it refuses to acknowledge anything like a subordinate Dominion citizenship. Therefore, when we come to Burma, the facts we have to bear in mind are not what Major Graham Pole has laid down, namely, British nationality and residence, for that will not take us very far at all, but what we have to remember is that in Burma, if we are to follow not only Great Britain, but the practice of some of the Dominions, we must define conditions of citizenship similar to those prevailing in those places. I think we all know by now that within the Empire, Canada, South Africa and Ireland have defined their own separate citizenships, and if I may, I will take you through the history of those three definitions. Take the case of Canada and South Africa. Why did those two Dominions start defining citizenship? Those Dominions in the British Empire defined citizenship because, as original members of the League of Nations, and under the arrangements made thereunder, they have places on the

International Hague Tribunal. One of the conditions of securing a place on the Hague Tribunal under the League of Nations is that no country shall be represented by more than one individual. If Canada and South Africa had not defined their separate existence, the presence of a British judge on the Hague Tribunal would have automatically cut out the Canadian or the South African from getting any chance of representation in that Court. That is why Canada and South Africa have in a very limited manner defined their own Dominion citizenship. If I remember rightly, the question of residence does not come into either of those two definitions. That is the history so far as those two Dominions are concerned.

Now take the Irish Free State. The Irish definition has now a background similar to the other two. In all the three Dominions, the Irish Free State, Canada, and South Africa, there is something like a Supreme Court which would deal with these matters from the point of view of the respective laws of those Dominions. But if in Burma you introduce the idea of Dominion citizenship your appeals lie in England, where they know of no such thing. In English law and practice all British subjects are alike.

Major Graham Pole: What do you mean by "the appeals lie in England"? Do you mean the Privy Council?

Mr. Haji: Yes.

Major Graham Pole: But if an appeal comes to the Privy Council from Burma, it is not an English court but a Burman court.

Mr. Haji: But do you want me to understand that the laws that do not recognise anything other than the status of a British subject will for that definite subject recognise that status?

Major Graham Pole: It will recognise the laws of Burma, whatever they are; it will interpret them.

Mr. Cowasjee: People come to the Privy Council in respect of the nationality of the individual.

Mr. Haji: That is exactly the point. I think before you can get your own definition of citizenship you must have a Supreme Court of your own. You must be utterly compact and self-sufficient if no complications are to arise. That is why I submit that unless we are prepared to eliminate the later stages of judicial appeals, namely, unless we are prepared for a Burma which will not have much to do, even in the judicial line with Britain, unless we reach that stage—and we are prepared for that stage now—it would be a mistake to define citizenship even as Major Graham Pole has suggested. Personally, I think it is a good idea that each Dominion should have its own definition if it wishes to have it. But let us have first of all the conditions in Burma, let us get our Supreme Court, and then define citizenship. If that is the case, then there will not be any difficulty at all.

U Ni: Major Graham Pole mentioned that the fact that a person is a British subject should be one of the main ingredients of citizenship. If we look at the definitions given at present in the Burma Electoral Regulations, corrected up to the 5th September, 1928, from page 19, you will find every definition as regards Anglo-Indians, Europeans, Karens, Indians and so forth, includes this point. I will

just quote the definition of "Anglo-Indian"; I will start from that and come to "Indian."

" 'An Anglo-Indian' means any person being a British subject and resident in British India,—

(i) of European descent in the male line who is not a European, or

(ii) of mixed Asiatic and non-Asiatic descent whose father, grandfather or more remote ancestor in the male line was born in the Continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa or the United States of America, and who is not a European."

Then we come to "European." Of course that should not raise any difficulty. It says:—

" 'A European' means any person of European descent in the male line, being a British subject and resident in British India, who either was born in or has a domicile in the United Kingdom or in any British Possession or in any State in India, or whose father was so born or has, or had, up to the date of the birth of the person in question, such a domicile."

" 'A Karen' includes a Taungthu"—I do not know what that means—" 'A Karen' includes a Taungthu and means a person belonging to any race which the Local Government may, by notification in the Gazette, declare to be a Karen or Taungthu race for the purpose of these rules."

So that it seems that the Local Government can create Karens. Then we come to "Indian":—

" 'an Indian' means any person of Indian descent in the male line, being a British subject "

It is always "being a British subject" in every definition:—

"and resident in British India, who either was born in or has a domicile in British India, excluding Burma, or in any State in India, excluding the States in Karenni, or whose father, or grandfather, was so born or has, or had, up to the date of the birth of the person in question, or of the father of the person in question, as the case may be, such a domicile."

You will find that in all these definitions the fact that he is a British subject is a very important part. After agreeing upon this point, there is the question of residence, which is a very important factor. When we were drafting the scheme of Constitution for Burma under the auspices of the Hundred Committee, we had the opportunity of deliberating upon this point with some politically-inclined Indian gentlemen such as Mr. Tyabji, Mr. Rauf, Mr. Khan, and others, as to the number of years by which we were to judge that a man really intended to stay on in Burma. Well, we found a difficulty there. For instance, as regards the British or the English or any other person not belonging to Burma, we could very well agree to a very reasonable period, say seven years; but when it came to India we found that the places are too near to each other, so that although the Indian gentleman might be residing there for ten years, we could not say when he would go back, and they used to go back, and so we propose that to cover such cases twelve years' residence should be the rule.

Chairman: For an Indian?

U Ni: Yes, for Indians.

Chairman: You mean you want to make a special rule for India?

U Ni: It looks like that. We do not want to discriminate, but it is simply because of the fact that it is rather difficult to find out whether an Indian gentleman living in Burma would really continue to spend his life in Burma. Other people are quite different. For instance, we can apply the seven years' rule to an Englishman or to anybody else, but not to Indians, because that is the difficulty. That is a point which we were discussing actually at the time.

Mr. Cowasjee: For Indians you would add on five years more?

U Ni: Yes. *Mr. Cowasjee* was quite agreeable to the provision.

Chairman: I want to be quite clear. You say in the case of Indians you want to have a twelve years' residence qualification; that is so, is it not?

U Ni: Yes.

Chairman: And in the case of all other British subjects you want to have seven years?

Mr. Cowasjee: Yes, seven years.

Chairman: I was asking *U Ni*.

Mr. Cowasjee: He said seven years.

Chairman: Yes, but I like to get it first hand instead of second hand. Now, is that because you think they are too near?

U Ni: Too near, yes.

Chairman: And what about the Chinese? They are even nearer, are they not?

U Ni: They have to go a long way by the sea.

Mr. Haji: They can get home by land.

U Ni: They are not British subjects.

Chairman: I am talking of the men of Chinese origin who are British subjects. We are only talking about British subjects. I only just wanted to know. You would not apply the same badge of distinction to them; you keep it only for the Indians, do you?

U Ni: Only for the Indians, My Lord. I am sorry but . . .

Chairman: It is really rather important, because India is a big neighbour of Burma, and it would not be particularly appreciated in India, that distinction, would it? I mean, you will agree that it is an important point, making a differentiation in that case in favour of others, or as against Indians, putting India into a different category, is it not?

U Ni: It is, My Lord.

Chairman: What I was thinking of was this. You will have to negotiate with India in matters of trade, and things of that kind. You no doubt have weighed carefully that it will not be a help in those negotiations, if you put a special disability on India, will it?

U Ni: That is why I would make it twelve for all.

Chairman: It is a compromise.

U Ni: It is a compromise. That is the figure that we have ultimately reached there, whereas my friends of the Burma Separation League, in their draft constitution, have fixed twenty years' domicile. That is too long, I should say.

After fixing the term of years there is another thing which we might make clear. That is, that if a person is then at that time enjoying another citizenship he must renounce that citizenship, or he will be deemed to have renounced any other citizenship which he might be enjoying at the time.

Chairman : Any other citizenship. I am not quite clear about that. You say he is a British subject and that he shall vote under certain circumstances. Is that so?

U Ni : Yes.

Chairman : He secures the right to vote in Burma after this period of residence. What is your inference? Is it that he shall not be qualified to vote in another land or in another Dominion?

U Ni : Although he is a British subject he might be enjoying another citizenship at the same time—American citizenship for instance, or Canadian citizenship. That is quite possible.

Chairman : I only want to know what you mean. Do you want to put a further disability on somebody?

U Ni : Yes.

Chairman : You are aware, of course, that a British subject here can vote after three months' residence, but I gather that you want to put on a British subject who is in Burma the restriction that he must have lived there 12 years before he gets a vote. Is that so?

U Ni : Yes.

Major Graham Pole : And renounce his citizenship in this country too.

U Ni : Not in this country. He must be a British subject.

Chairman : Then what does he renounce?

U Ni : He must renounce any other nationality which goes against British citizenship.

Chairman : You mean if he was a German, shall we say?

U Ni : Yes, if he is a German.

Chairman : There we are getting on to a very different ground.

Major Graham Pole : You mentioned Canada just now. It is quite possible for a man to have a vote here and a vote in Canada. Do you want him to renounce Canadian citizenship?

U Ni : That is it, if he is going to acquire Burman citizenship.

Major Graham Pole : But if he is going to renounce Canadian citizenship why not renounce citizenship in the United Kingdom if he is a citizen here?

U Ni : Because one of the qualifications will be that he must be a British subject.

Major Graham Pole : Quite, but he would be that by being a Canadian.

U Ni : I think if there is all this difficulty I would rather drop it. I have just been trying to put the point that there cannot be two citizenships. In time of war that becomes very important, because if a man is a citizen of another country all the laws of that country apply to him. Therefore, if he did anything against the Government he would be punishable according to the laws of our country if he was a citizen. That is the difficulty I have in mind.

Sir O. de Glanville : May I ask a question? Does U Ni not agree that no one should have a vote who is not a British subject?

U Ni : That is one of the main ingredients to which I have referred.

Mr. Wardlaw-Milne : It may be my fault, but as I have understood what U Ni has said, all that he wants—and it is not any small request—is that the future voter in Burma shall be a person who, if he was not born in Burma, must be a British subject resident in Burma for twelve years.

U Ni : Yes, for the purposes of voting only we may reduce the time to any reasonable period.

Mr. Isaac Foot : Why did you choose twelve years? Why not twenty?

U Ni : My friends of the Separation League did favour twenty years.

Chairman : Are we not getting rather confused? We were really dealing with the question of qualifications for voting, and you say first of all—and I suppose everybody would agree—that the person to be so qualified must be a British subject to start with. Then the question is, what further qualification is required? Some have suggested domicile. Some have criticised domicile. Others have suggested residence, although opinions as to the time of residence have varied. Now you are dealing with quite a different thing, namely, citizenship. What do you mean by citizenship?

U Ni : Naturally, unless one is a citizen one should not be allowed to vote.

Chairman : He is a British subject first of all, and then it is a question of what shall qualify him—domicile, residence, or what not. Then you are saying that there is some other qualification. The word "citizenship" does not seem to mean anything unless you define it. Supposing you said that a man must be resident for a certain time, say a year and, also, must be a British subject, you say that in addition to that he must have some other qualification which you may or may not call "citizenship." But it does not help us to use the word "citizenship." It would be much more specific if you said what is the qualification for the voter. If you chose to call one or more qualifications "citizenship," well and good, but do let us hear precisely what your qualifications for the voter are, and if you say that residence or residence for one year is not enough, tell us exactly what you mean. Take a person who was a British subject—a Welshman, let us say—who goes to Burma, resides there for a year or two years, and wants a vote. Do you say that he must have something more than those qualifications?

Tharrawaddy U Pu : Citizenship.

Chairman : Yes, but you must define "citizenship." It is no good saying to the Welshman : "you must also be a Burman." What in fact is the qualification, in addition to the one you have mentioned, with which the prospective voter must in your judgment comply?

U Ni : When we consider this qualification for a voter, we try to fix our idea on one point : that is, unless he is a citizen he will not be entitled to vote.

Chairman : Yes, but I am just asking you what you mean by that? I do not in the least understand what you mean.

U Ni : That is why I went into some of the qualifications by which a man or a woman can become a citizen.

Chairman: What are they? May we have your view in black and white?

U Ni: We will define it like this: "Every person without distinction of sex domiciled in Burma who was born in Burma."

Chairman: He must be born in Burma?

U Ni: Or either of whose parents was born in Burma, either his father or mother born in Burma, or who has been ordinarily resident in Burma for not less than twelve years. I have not really thrashed out this point, but if it will not confuse the matter, I might add this: "and renounces any citizenship of any other country which he or she may be enjoying at the time." He or she must have renounced it.

Chairman: Do you mean he or his mother or father?

U Ni: No, he or she, himself or herself. That is our definition. That is the main point we apply to the voter. That is how we distinguish between a voter and a non-voter.

Lord Mersey: May I ask U Ni a question or two about that before we go on? Then what would happen to the communal representation? Would there be any voters in the communal constituencies?

U Ni: The Karens who are there.

Lord Mersey: But I am talking now, for example, of the Indians. Would there be any Indians to vote in these constituencies?

U Ni: Yes, there would be.

Tharrawaddy U Pu: Permanent settlers.

U Ni: There are a good many already there, as Your Lordship will see from the census.

Major Graham Pole: Too many probably?

U Ni: Too many I should say.

Lord Mersey: Would there be any English—half a dozen or something like that?

U Ni: Well, Sir Oscar will be in a better position to answer that.

Lord Mersey: Then my other point was this. This, of course, is a democratic proposition. I mean the whole spirit of this new Constitution is a democratic spirit. What about taxation without representation? I mean, that underlies the whole principle of democratic Government. Here are people who would be paying taxes for eleven years, working in Burma, but they would have no representation at all.

U Ni: Then what is the position in England?

Lord Mersey: Three months.

U Ni: For a vote? Is that so? What is the point of difference?

Major Graham Pole: There is only eleven years and nine months difference.

U Ni: For the purpose of voting I can very well reduce the period.

Mr. Isaac Foot: Then the definition, I understand it, is one in which domicile starts and makes the foundation of citizenship?

U Ni: Yes.

Mr. Isaac Foot: Which apparently no one can define.

U Ni: Anyhow, it has its meaning.

Major Graham Pole: Yes, I have given a definition.

Chairman: Were you reading from the Irish Free State Constitution Regulations—because they seem to bear a very remarkable resemblance to what you were stating?

U Ni: Yes, it is very similar I should say.

Chairman: Because I see there it says, first of all he must have been ordinarily resident for not less than 7 years. You have given it a lift up to 12 in this case?

U Ni: Yes: it is a compromise.

Chairman: Oh, it is a compromise, is it?

Major Graham Pole: To show how they love the English. The Separation League say 20 years.

Chairman: Then he must be also domiciled, according to you, as well?

U Ni: Domiciled.

Chairman: I mean as well as being resident? Is that alternative in your view? I mean that he must be either domiciled or resident for 12 years, or must he be both domiciled and resident for 12 years?

U Ni: I think it means the same thing.

Major Graham Pole: No, no!

Chairman: Then I am afraid you do not understand what "domicile" means if you say it means the same thing; it means a very different thing. But I only want to be quite clear. Do you say that a person should possess both qualifications—that is to say, supposing he or she has been resident for 12 years but is not domiciled, would he or she have the vote or not, according to your proposal?

U Ni: I do not quite follow your point, if Your Lordship would be pleased to be more explicit.

Chairman: I may live in a country for 12 years, but I am not necessarily domiciled in that country, because if I have the mind, the intention, of returning to another country I am not domiciled in that country where I have been living for 12 years. Therefore you may have plenty of people who are living for 12 years in a country yet are not domiciled in that country. My question, therefore, was this. Do you mean to say that a man must both live for 12 years resident in the country and be domiciled, or are your qualifications alternative? That is my point.

U Ni: Well, I think it will be a very rare instance where a man, after living for 12 years in a country, would yet, for all intents and purposes, be leaving the country.

Major Graham Pole: But take Mr. Howison, for instance. He has been there over 20 years.

U Ni: When I mentioned that period, I think it should be the point to determine the domicile as well. Twelve years' residence, the overt act, ought to be enough to enable you to come to the conclusion that he can call himself domiciled.

Chairman: I see. Then you want to alter the law, really.

Major Graham Pole: My Lord, that is just the point. He cannot call himself domiciled unless he is domiciled. You cannot simply call yourself domiciled. You are either domiciled or you are not domiciled.

Chairman: But what I understand that *U Ni* wishes to say is that the courts, instead of taking the ordinary definition of domicile, should presume, if a man has been resident for 12 years in a place, that he is domiciled there.

U Ni: If there is any dispute about it he ought to be presumed to have that domicile.

Chairman: You may be quite sure there would be plenty of disputes about it. But that is your view. You want to alter, in fact, the definition of "domicile." That is it, is it not?

U Ni: Yes; and there is just one clause that I may read to Your Lordship, because the intention to live in the country is an important point. Here it is said—I am reading from page 20 of the Burma Electoral Regulations, clause (f)—

“ a person shall be deemed to have a place of residence”—
because he must have a residence—

“ within the limits of a constituency”—
of course, that applies to Burma—

Major Graham Pole: But you do not require a residence for domicile.

U Ni: You would not require it?

Major Graham Pole: No. I am a domiciled Scotsman, but I have no residence in Scotland at this moment.

U Ni:

“ a person shall be deemed to have a place of residence within the limits of a constituency if such person—

(i) ordinarily lives within these limits, or

(ii) maintains a dwelling house, ready for occupation, within those limits and occasionally occupies it.

Explanation.—A person may have places of residence within the limits of more than one constituency at the same time.”

Major Graham Pole: Yes but that has nothing whatever to do with domicile.

U Ni: Very well. I just referred to this point because in domicile one of the main points is whether he intends to live in that country or not, and that may be inferred from an overt act like this. Although he may be in India often he may keep a house in Burma with the windows open.

Major Graham Pole: Yes, but the whole point is, is there the intention to return to it?

U Ni: To return, yes, because the windows are kept open.

Chairman: I only want to ask one or two general questions of *U Ni*, because behind all these questions of technicalities there is a question of policy. The point is that he wants to restrict very much the right of British subjects coming to Burma to get the vote. That is your object, is it not?

U Ni: Yes, My Lord.

Chairman: You are going to make it extremely difficult for anybody to vote in Burma.

U Ni: Except a British subject.

Chairman: You want to make it as difficult as you can, say for somebody going from here to Burma to vote. He is going to find all sorts of difficulties in the way of getting a vote. You want in fact to establish non-reciprocity between this country and Burma. Here of course a British subject can come and reside for three months and get a vote. You want to make it 48 times more difficult for somebody from here going to Burma than for somebody from Burma coming to this country. That is the effect of what you say and that is presumably what you desire.

U Ba Si: My Lord, may I explain the position and the reason underlying our desire to fix a long period in Burma. Burma is between two big civilisations. One is China, a very big civilisation, and the other is India. Burma is a very small civilisation comparatively. The people of Burma are very much afraid under present circumstances. Of course, they were not afraid before, but now that society is more or less in a disorganised state they are very much afraid that this small civilisation will be submerged by the big civilisation.

Chairman: Of China?

U Ba Si: Of China or India or both. In order to keep Burma as a separate entity the people of Burma are very anxious to find ways and means to keep Burma, if possible, separate in safety. Therefore in relation to the future Constitution of Burma we have been trying to fix a period that would be reasonable so that Burma civilisation may be kept in safety quite intact.

Major Graham Pole: Have you thought how you could achieve that by the immigration laws?

U Ba Si: Yes, but of course the conditions are rather peculiar. Take for instance an Indian coming from India to Burma, leaving his family in India and leaving his home there. He never intends to settle down in the country although he may come and live there for three years or five years or seven years. Then he goes back to India for a year or so and then comes to Burma again. He has been sending to India what fortune he has made in Burma although only once in perhaps three years or five years he goes back to India. The same thing may happen in the case of a man coming from China. Those are the conditions now prevailing in Burma. Such people, though they may have interests in the country, have not the welfare of the country at heart and we say that they should not be allowed to dabble in our internal affairs.

That is the reason underlying all these proposals for fixing such a long period against these people. As for Europeans, we are not afraid, because very few Europeans can come to Burma and settle down there. So far as the Europeans are concerned, I do not think they will be entitled on communal grounds to have a vote, but having special interests in the country they should have it.

Chairman: I understand the general proposition you put forward. Burma does not want to be overwhelmed by China or India. But, to take China first of all, surely we are not dealing with four hundred millions—if that is the number of people in China—but only with those Chinese who are British subjects. If you say the vote is to be limited to British subjects you at once cut out the four hundred million Chinese in China, and therefore I do not see the danger of Burmese civilisation being outvoted by people who, according to the basic definition, are outside the vote and cannot get it.

U Ba Si: There are the Chinese in the Straits Settlements and Chinese in the British possessions who are British subjects. I would like to submit also that this measure is only for a temporary purpose. When we are in a position to stand on our own feet this can be relaxed at once. But for a certain number of years we do wish to have these provisions.

Chairman: Let me ask you further about the Chinese who are British subjects in the Malay States. Are you really afraid of a large

number of Chinese who are British subjects from the Malay States coming in considerable numbers to Burma and getting too many votes?

U Ba Si: As it is, the influx has been increasing from day to day. Even the Chinese subjects come to Burma and are to be found in every nook and corner, even in the most remote villages, and after intermarriage they can be naturalised and become British subjects.

Chairman: They must be naturalised of course?

U Ba Si: We have occasion to be afraid both of the Chinese who are British subjects and of the Chinese subjects too.

Chairman: Of course, you can restrict immigration, as has been suggested. Let me ask you one other question about this matter of domicile. I think you were referring to Article 3 of the Irish Free State Constitution Act. It is not quite easy, reading it casually, to know what it does mean, but it appears to mean that in order to have a vote a man must not only be domiciled, but also resident for not less than seven years. Do you suggest further that apart from the residence—assuming that it is still seven years, and not lifted as U Ni lifts it to twelve years—a man must also be domiciled as well? It is quite clear a man may be domiciled although he has not had seven years' residence; because he may go to a country with a firm determination of spending the rest of his life there and not returning to his old home, and yet not have been there for seven years. Do you mean he must both be domiciled and also have seven years' residence before he has a vote?

U Ba Si: He can become domiciled after a residence of 7 years.

Chairman: But he may have become domiciled before that. I want to know: must he become also domiciled; because it does not follow when he has been there 7 years that he is also domiciled, and he may become domiciled without being there 7 years. Do you say he must have both qualifications?

U Ba Si: Domiciled and . . .

Mr. Isaac Foot: And would U Ba Si give us some help upon the suggestion that the problem with which he has dealt and the dangers of the eruption of large numbers of people from other nationalities can be dealt with by emigration laws. Instead of dealing with this apprehended trouble by franchise discrimination, why not deal with it by the ordinary method of emigration laws? Why should we complicate the basis of franchise in order to accomplish some purpose that can be achieved otherwise, and naturally achieved in some other direction?

U Ba Si: Our intention on this point was only for a temporary purpose, a temporary measure; because the difficulty is to deal with the present situation. Of course the law of emigration will be there no doubt, but that will only come gradually. Of course we cannot very well go and use this law of emigration in any very revolutionary manner, but in fixing this date it is only to deal with the present conditions, the existing conditions. So the law of emigration will be applied gradually, and at the same time we can relax our present proposals.

Mr. Isaac Foot: Yes; but upon that point U Ba Si was directing attention to the danger they apprehend.

Chairman: Yes, that is so.

Mr. Isaac Foot: Am I right in assuming that that danger can be met by emigration laws, but now U Ba Si has taken another ground and he suggests that they want to deal with those who have the franchise at present. Well, it would be very dangerous, would it not, in the granting of a new Constitution to make one essential part of that new Constitution the deprivation of the vote which has been enjoyed by many people who are in Burma at the present time? Would not that give rise to a serious grievance?

U Ba Si: This may necessitate an investigation as to whether those who have the right of franchise now obtained it legally or illegally.

Mr. Isaac Foot: Do you mean by the standard of the laws at the time, or by the standard of the new law?

U Ba Si: Nothing is quite settled up to date, because the people who come there for a temporary purpose may be entered in the list; constant protests have got to be made, and when a protest is made their names are struck out. So that nothing is settled at present. Therefore things are in the making I should say. Therefore, there will be no danger.

Mr. Isaac Foot: Now, U Ba Si has pointed out the difficulty of ascertaining the franchise under the existing law. There is a doubt apparently upon certain cases. Those doubts he wants to wipe away. Will he not be introducing a much more uncertain factor if he is going to make domicile the basis of the franchise. Apparently no one can understand "domicile." As far as I can see, the only persons who understand it here are the Chairman and Major Graham Pole.

Chairman: I do not understand it; it is only Major Graham Pole.

Mr. Wardlaw-Milne: On the contrary, they have agreed not to understand it.

Mr. Isaac Foot: But to make it the basis of the franchise, following only one precedent—and that precedent has been the subject of criticism—and to introduce that uncertain factor into a country like Burma, surely would be a disastrous step.

Major Graham Pole: Except for the lawyers.

Mr. Isaac Foot: It would be a disastrous step, because you want to make the basis of your franchise the simplest thing that human ingenuity can secure. By inserting the word "domicile" we deliberately make it very complicated.

U Ba Si: That is for you to consider, and I think my friend U Ba Pe might consider it also.

Chairman: You said, "That is for you to consider, and . . ."

U Ba Si: I say the various questions that are now put before the Conference are for consideration. As far as I am concerned, I have given to the Conference the conditions prevailing.

Mr. Harper: May I ask U Ba Si just one question. He explained just now that it was the object of this suggestion or one of the objects of it, to ensure that no Indian should receive a vote unless he was a permanent resident in the country—had become a citizen of Burma—and, of course, the same would apply to a Chinaman, and he explained that they were rather afraid of the threat at Burmese civilisation by an influx from these two countries. Now, if he makes it difficult for, shall we say, temporary settlers in the country to have these political rights, is he not encouraging them to become permanent settlers, and will not that, in itself, be a greater threat rather than a lesser threat to Burmese civilisation?

U Ba Si: We shall have no objection, after we have made these provisions. Everybody coming in to Burma can be Burmanised.

Mr. Campagnac: Perhaps I can clarify the atmosphere a little. I think I know what is underlying the suggestion of my Burmese friends about fixing this definition of "domicile". They certainly do not want to disenfranchise the Europeans who are in the country now, and so far as they are concerned I do not suppose that they want to insist on a seven years' residential qualification.

Chairman: No, but it would have that effect though they might not intend it.

Mr. Campagnac: And at the same time they do not wish to discriminate between the Indians and Europeans, but what is at the back of their minds is this. An Indian comes to Burma; he has a great facility for passing examinations, and he is eligible for appointments in Burma and at the same time he is eligible for appointments in India, and the result has been that you find in places like the Post Office, the Accountant-General's Office, even in the High Court, Indians getting appointments there and the doors being closed to Burmans. In our Post Office, I think I am right in saying that we have about 90 per cent. Indians, and it is to stop that that they are trying to fix this definition so far as the franchise is concerned. If it could be pointed out that we should have citizenship for appointments apart from citizenship for the purpose of the franchise, I think that would meet their difficulty. I think that is the whole thing underlying this suggestion.

Chairman: Yes. Of course, when you talk about 90 per cent. I take the figure from you for the moment, but it must be remembered that Burma is now a Province of India.

Mr. Campagnac: That is so.

Chairman: Well, it makes a great difference. The assumption that we are going on is that it will not be in the future.

Mr. Campagnac: Burma is a Province of India now. As a matter of fact, since the Reforms have been introduced, we have been trying only to give appointments to Burmans or people domiciled in Burma. Whenever a man came before a Selection Board, we always questioned him to find out exactly what his domicile was, and we have found that we can only do that when a man comes before a Selection Board, but when it is a question of passing examinations, or being appointed in a department, we have no say whatever.

Chairman: Yes. Now we are on another subject, rather—whether there should be a separate test, as it were, for people who hold, I was going to call them, official posts.

Mr. Campagnac: I think that is what is required, and I think that is all that is required.

Chairman: Well, I thought we were dealing with rather a different thing—the vote—which is rather different from that.

Mr. Campagnac: That is why they have put this definition on the franchise, because they wanted to deal with the other matter as well. That is what I am trying to point out—that there are two separate things for which we might have separate arrangements.

Chairman: I see what you mean. It is in order to keep a number of Indians from getting posts in the Post Office—that is your point—that they want to put this special disability as regards the voters?

Mr. Campagnac : That is so.

Chairman : It is an indirect way of doing it.

Lord Mersey : Could not that be met, My Lord, very much more simply by instructions? You could perfectly easily have an instruction that the Burmans in the Civil Service should form a certain percentage. That is perfectly simple. It would be an *ad hoc* direction for that purpose.

Tharrawaddy U Pu : It should be.

Lord Mersey : In the same way as the immigration law.

U Ba Pe : My Lord, the discussion on the future citizenship of Burma has been rather interesting to listen to, and I may as well join in this debate. Before I go into what should be the conditions under which a man or woman coming into Burma from outside Burma should be regarded as citizen, I should like, first of all, to examine what are the conditions imposed on people entering a country before they can acquire citizenship.

Chairman : I am sorry to interrupt you, but would it not be simpler if you used the phrase "acquired the vote," because we are now discussing the question of the vote. Citizenship is a rather wider thing than voting, and we are now dealing with the vote.

U Ba Pe : I will try to make it clear as I go along. The three countries usually referred to in this connection are the Irish Free State, Canada, and South Africa. I want, first of all, to deal with the Irish definition of "Citizenship," to which I referred the other day. Article III of the Constitution of the Irish Free State deals with "Citizenship," and a citizen is there defined as follows:—

"Every person, without distinction of sex, domiciled in the area of the jurisdiction of the Irish Free State at the time of the coming into operation of this Constitution, who was born in Ireland, or either of whose parents was born in Ireland, or who has been ordinarily resident in the area of the jurisdiction of the Irish Free State for not less than seven years, is a citizen of the Irish Free State."

That is the definition of a citizen given by the Irish Free State. It makes no exception in the case of the people of the United Kingdom. Those who were not in the Irish Free State at the time of the coming into operation of the Constitution must have at least seven years' residence before they can exercise the right of "citizenship." Then in the Canadian Constitution a Canadian citizen is defined as follows:

"Canadian citizen means a person born in Canada who has not become an alien, a British subject who has a Canadian domicile or a person naturalised under the laws of Canada who has not subsequently become an alien or lost Canadian domicile."

You will note the word domicile occurs there, and they define domicile as—

Major Graham Pole : But that is not for the purpose of the franchise in Canada, is it?

U Ba Pe : You have to distinguish between Canadian nationality and Canadian domicile. Domicile is defined as follows.

"Domicile means the place in which a person has his home, or in which he resides, or to which he returns as his permanent abode, and not the place where he resides for special or temporary periods.

Canadian domicile can only be acquired by a person who has been at least five years in Canada after having landed therein, for the purpose of this Act."

Major Graham Pole: That is not such a good definition as mine.

U Ba Pe: I come next to South Africa. There the definition of a citizen is:

" a person born in any part of South Africa included in the Union who is not an alien or a prohibited immigrant; also a British subject whose entry into any part of South Africa included in the Union was in accordance with any law governing at the time of such entry the immigration of persons into that part of South Africa, and who has for a period of at least two years thereafter, been continuously domiciled in the Union so long as he retains that domicile."

What the Indians themselves are thinking of this question is given by the definition of citizen which appears in the Report of the Committee appointed by the all-Parties Conference to determine the principles of the constitution for India—the committee of which Sir Tej Bahadur Sapru was a member.

Chairman: That is to say, the Nehru Report?

U Ba Pe: Yes, the Nehru Report. The definition of citizen is there given as follows:—

" The word ' citizen ' wherever it occurs in this constitution means every person

(a) who was born, or whose father was either born or naturalised, within the territorial limits of the Commonwealth and has not been naturalised as a citizen of any other country;

(b) who is naturalised in the Commonwealth under the law in force for the time being.

Explanation.—No person who is a citizen of a foreign country can be citizen of the Commonwealth unless he renounces the citizenship of such foreign country in the manner prescribed by law."

A man must be born there, or his father must be either born or naturalised there. Here, also, you will see that a very strict interpretation is put on the definition of " citizenship."

Now, why have these various States done those things? There must be a very good reason. We see it in Ireland, which until lately was part of the United Kingdom; we see it in Canada, while South Africa, in addition to putting restrictions on immigration, requires two years' continuous residence. The reason is this, that each of these three countries—Ireland, Canada, and South Africa—is small in population compared with countries like Great Britain, the United States, or India.

Chairman: If I may interrupt you, I was going to say that I am advised that what you have read of the Nehru Report was not from the latest edition of it.

U Ba Pe: I am aware of that.

Chairman: So what you have read just now was not the final definition.

U Ba Pe: What I wanted to point out was that Indians themselves intended to put very strict restrictions on the definition.

Chairman: But they came to a final conclusion which was quite different.

U Ba Pe : I know; that is only for the people of the United Kingdom; but they retained their intention to discriminate against South Africa and other countries.

Chairman : But I want to ask you this, *U Ba Pe*. You know we are really now discussing the question of the basis of the franchise, of who shall be entitled to vote. You may have a definition of citizenship if you like, of course, but are you suggesting that nobody should have the right to vote unless he is also a citizen? Because it is quite easy to have a definition of citizenship and yet to say that other people besides citizens shall have the right to vote. Is that not so?

U Ba Pe : There is this difference to my mind: A citizen must have the right to vote; there is no question about that.

Chairman : Of course a citizen must have.

U Ba Pe : Those who have not acquired citizenship will fall into two categories: One category will include foreign subjects, with whom we have nothing to do, and the other, the British subjects. Now with regard to the British subjects, for instance, in Burma we have the European population, the Indian population, the Chinese settlers, the British subjects there. They must either become citizens of Burma, or, if they do not like to become citizens of Burma they must be placed under certain conditions. I am coming to those conditions later on.

Chairman : Very well.

U Ba Pe : I think I have made myself clear.

Chairman : You have made yourself quite clear. You will deal with your intermediate class, shall I call them, in the course of your speech.

U Ba Pe : I am just going to state the reason why they want to put this time limit, because it applies to Burma with great force. I was saying that those countries have small populations compared to those of the United Kingdom, India, and so on. Now if you look at Burma, you will find Burma has a population of just over 14,000,000 at present, or nearly 15,000,000. She has her own culture, race and so on, and there is a strong feeling in the country to try and retain the native culture intact. To do that it is of the utmost importance to us in Burma to endeavour to limit the conferring of "citizenship" upon outsiders. The same remarks also apply to the economic position in Burma. The people of Burma are being swamped by outsiders in economic spheres. We should like, if possible, to stop that. In thinking of these matters it is thought that the qualification for exercising the franchise can be regulated in such a way that those who have the say in the country will be confined to those who have abiding interests in the welfare of the country at heart, and not to those who go there with no desire to settle down there permanently.

Major Graham Pole : Then you do not agree with Lord Mersey about no taxation without representation?

U Ba Pe : I will come to that. There was a sort of conversation or debate between General Smuts and Sir Tej Bahadur Sapru which is of great interest. With your permission, My Lord, I will just read out a few passages. General Smuts, the then Prime Minister of South Africa said:—

"There is one British citizenship over the whole Empire and there should be; . . . we must not derive from the one British citizenship rights of franchise, because that would be a profound

mistake. The attitude has been that franchise does not depend upon British citizenship. It is only in India that this position is not understood."

To this Sir Tej Bahadur Sapru replied:—

" However powerful he may be in South Africa, and however weak we may be in India, you cannot relegate my countrymen for all time in King George's Empire to a position of inferiority . . . If the Indian problem in South Africa is allowed to fester much longer it will pass . . . beyond the bounds of a domestic issue and will become a question of foreign policy of such gravity that upon it the unity of the Empire may founder irretrievably . . . You cannot, according to the modern law of citizenship and according to the latest development of thought, have two kinds of citizenship in the same Empire, a higher and a lower."

To this General Smuts replied:—

" As long as it is a matter of what are the rights of a British subject, it is not a matter of foreign policy; it is a matter entirely domestic to the British Empire.

" If it becomes a question of foreign policy, then Indians cannot claim on the ground of their British citizenship any more the recognition of any particular rights. Once they appeal to a tribunal . . . outside the British Empire, they can no longer use as an argument the common British citizenship. I want it to be recognised . . . and you must not derive from that citizenship claims which you cannot uphold."

Now, on this point, Lord Crewe, who was Secretary of State for India for the time being, made another observation which I think goes to support our contention that we must determine our own citizenship in the interests of our own country.

Chairman: You are reading that statement of General Smuts from the Imperial Conference of 1923, are you not?

U Ba Pe: Yes, My Lord.

Chairman: Because Lord Crewe was not Secretary of State then

U Ba Pe: No. This was later on.

Chairman: He was Secretary of State long before that.

U Ba Pe: Quite so.

Chairman: I was Secretary of State at that time. I was through the whole Conference. I know that very well.

U Ba Pe: This is what Lord Crewe said:—

" I recognise fully—as His Majesty's Government fully recognise . . . that as the Empire is constituted, the idea that it is possible to have an absolutely free interchange between all individuals who are subjects of the Crown—that is to say, that every subject of the King whoever he may be or wherever he may live has a natural right to travel or still more to settle in any part of the Empire—is a view which we fully admit, and I fully admit, as representing the India Office, to be one which cannot be maintained. As the Empire is constituted it is still impossible that we can have a free coming and going of all subjects of the King throughout all parts of the Empire. Or, to put the thing in another way, nobody can attempt to dispute

the rights of the self-governing Dominions to decide for themselves whom, in each case, they will admit as citizens of their respective Dominions."

Chairman: Yes. That was to do with the immigration laws, not with the vote.

Major Graham Pole: And they decide that even with citizens of the United Kingdom, and send them back here from all the Dominions.

U Ba Pe: Yes, quite so. Then comes the question that if you limit the period to seven or twelve years, or whatever it is, you will be depriving British subjects in other parts of the Empire of the right to come to Burma; you will be depriving those British subjects of their right to exercise the franchise if you put a long period, because they will, during their sojourn there, be paying taxes in the country. This subject is easy enough, to my mind. A man of any religion in Burma cannot exercise the franchise until he attains his majority. He is not allowed to exercise the franchise until he attains his majority. All the time he will have property in the country and he is paying the taxes along with others, although he is not allowed to exercise the franchise. Now, a man coming from outside Burma is placed on a better footing than a native who has not attained his majority simply because he happens to pay taxes. That, to my mind, is not fair.

Major Graham Pole: You mean to say that an infant Burman should be greater than an adult person from outside?

U Ba Pe: Whose interests is greater in the country?

Major Graham Pole: I am just trying to get it clear.

U Ba Pe: Now, Mr. Haji said the definition of "citizen" was made by those self-governing Dominions because they are, in the first place, the original members of the League of Nations, and arising out of that they cannot appoint to the various posts connected with the League other nationals than their own, and they have to define their own nationals. Now, if he looks at the dates of the Acts my friend will find that the definition of the word "citizen" came long before the definition of the word "national." The definition of the Canadian "citizen" was laid down in the Immigration Act in 1910, where the Canadian "national" was defined in another Act in 1921; so you will see that Mr. Haji's idea that the definition of "citizen" should follow the definition for the "national" of the League of Nations is not quite correct.

Mr. Haji: May I just correct you in that?

U Ba Pe: Yes.

Mr. Haji: May I quote Professor Keith on this. In "Dominion Autonomy in Practice," page 21, he says:—

"For reasons connected, as will be explained later, with Dominion membership of the Permanent Court of International Justice, Canada in 1921, decided to define Canadian nationals as a specific class of British subjects."

Chairman: But citizenship was defined in 1910.

Mr. Harper: There is another book "Sovereignty of the British Dominions" by the same author which deals with this. It is stated there, that the definition was first adopted for a limited purpose, that of immigration, when it was desired to make clear what persons connected with Canada should be exempt from the immigration laws, and then there was a further definition in connection with the Permanent

Court of International Justice. It is only a matter of degree. The first definition was for immigration and it was widened for the purposes of the Permanent Court of International Justice.

Chairman: In 1921.

U Ba Pe: I quite agree with Major Graham Pole in saying that for the purposes of the franchise we must define " citizenship " to include two things. One is nationality and the other is residence. As far as nationality goes, all British born subjects will be eligible for it, but as far as residence goes there should be a period determined by the necessities of the country concerned. For Burma it should be in accordance with the wishes of the people of the country and not those who have no abiding interest in that country. The period has been suggested by one organisation as 25 years, by another organisation as 20 years and my friend U Ni has suggested 12 years. There is one point to be considered in that connection. If a foreign subject—say a German or an American or Chinese or Japanese—wants to become a British subject under existing law, in India, only five years' residence is necessary.

Major Graham Pole: It is the same here

U Ba Pe: But of course he has to prove other things as well, knowledge of English and so on. The period laid down there is five years. If we were to place a longer period on British subjects than we allow to foreign nationals I do not think that would be fair. The British subject should not have a bigger disability than the foreigner. Therefore I would suggest that we should follow the Canadian model or the Irish model and make the period five years or seven years. We would prefer seven years for this purpose. I would define a citizen of Burma, for the purposes of the franchise, as one born and brought up in the country, or, generally speaking a member of any of the indigenous races of the country or of any domiciled community. That would include those settlers in Burma and their descendants like the Burma-Muslims and so on. They have become part and parcel of the country. They will automatically have the franchise if they come under certain qualifications.

Those outsiders who are not going to settle down in the country permanently should, I think, be placed under a disability by requiring them to be there for not less than five or seven years—we prefer seven years. In that way, I think, we can easily clarify the position. Not only must they be British subjects, if they are outsiders, but they must have resided in Burma for at least seven years. Then they will be placed on an equal footing with other citizens of the country. That is all I desire to say, and I hope I have made myself clear.

Chairman: You have not come to the matter of the Nehru Report. It is quite true that the first idea of the Nehru Report was to deal with " citizenship " in the way you have mentioned.

U Ba Pe: That particularly refers to Europeans only in Burma. With the exception of a few men like Sir Oscar de Glanville, the Europeans amongst us have had no intention of settling down in the country. Most of the European residents in Burma are either in the Services, in commerce, or in the various professions, and they go back to their motherland as soon as the necessity for being in Burma has disappeared. Thus we lose the benefit of their experience. We should like more

Europeans like Sir Oscar de Glanville to settle down in the country. But, so far as the franchise is concerned, they come under special conditions; they will be exercising their rights through the special constituencies. Their membership is different.

Chairman: You say their membership is different, but the qualification for the vote would be the same.

U Ba Pe: They would become members of the Chamber in accordance with the rule of the Chamber, and would be voters by that rule.

Major Graham Pole: The subject we are dealing with is the franchise, not membership of the Chamber.

U Ba Pe: These people will not lose their franchise; they will be exercising it through their special constituencies.

Chairman: Is that so? Let us assume that there are communal constituencies—

U Ba Pe: Not communal in the case of the Europeans, special only.

Chairman: You say they would be special?

U Ba Pe: Yes, such as the Burma Chamber of Commerce and the Rangoon Trades Association.

Chairman: But there are Europeans in Burma who do not belong to those bodies; no doubt I shall hear views about that. You are suggesting that there will be a different franchise qualification for members of those communities?

U Ba Pe: That is so at present.

Mr. Harper: Not being a lawyer, what I want to say is more in the nature of asking questions which I hope someone will be able to answer, than of making anything in the nature of a statement. What worries me rather about this question of "citizenship" is that it does not seem to be just a simple matter of whether a settler in Burma is entitled to a vote. There seem to be further implications about which I would like to be rather clearer. I understand the suggestion started with U Ba Pe a few days ago when he defined "citizenship," adopting the Irish Free State Constitution definition for his purpose, and said that only citizens as defined there should have a vote. Therefore only citizens would become members of the Legislature.

This seems to me, then to be contemplating a common bond in Burma which would be superior to the tie which exists between British subjects and the King-Emperor. That would seem to go further and would contemplate that Members of the House would have to swear to maintain the Constitution on the model of the Oath which I understand is in force in the Irish Free State; that is to say, that their relation to the King-Emperor would be secondary to their relation to the Constitution.

Now, I think it would be a grave mistake to obscure in any way the allegiance due by subjects to the King-Emperor. That allegiance is, or should be, one and indivisible, as I think it is in all the Dominions—except in the Irish Free State. Everywhere else the Oath of Allegiance is to the King-Emperor. That seems to me to be one implication which follows upon this question of citizenship.

Then I understood U Ba Pe to say just now that he does not intend this question of citizenship for the purpose of a vote to apply to Europeans in Burma; they would be dealt with in some other way.

Well, there again there might be a possible solution on those lines, but I am not altogether happy on that because, although you have confined this question to the subject of the vote, we heard yesterday from U Tharrawaddy Maung Maung, for instance, the suggestion that this question of "citizenship" would be extended further, and would enter into the relations of commercial interests. He suggests, I think, that there might be discrimination against those who were not Burman citizens. That was a point which arose in the Indian Round Table Conference and was dealt with at considerable length. Lord Reading, for instance, pointed out how you could not very well cover, in a definition of "citizen," corporate bodies and firms. In fact, the Federal Structure Committee followed that up.

Tharrawaddy U Pu: That is a minor detail, I think.

Mr. Harper: I do not know that it is a minor detail. I am asking questions; I want to know what the position is on this point. The Federal Structure Committee said on that point:—

"There are, however, disadvantages in attempting to define the ambit of economic rights in terms of a political definition, and a definition which included a Corporation or limited company in the expression 'citizen' would be in any event highly artificial." I would like U Ba Pe, or someone else, to deal with that point.

Then Lord Reading also pointed out a difficulty that seems to be inherent in the definition of "citizenship" as given by U Ba Pe. I think, according to his definition as adapted from the Constitution of the Irish Free State, it would not be possible to be a citizen of two places at once; so that anybody who became a Burman citizen would have to cease to be a British citizen. That, as Lord Reading said, would be fatal.

U Ba Pe: But I did not suggest that should be the case in Burma.

Mr. Harper: I think that came at the end of your definition.

U Ba Pe: That is only the definition in the Irish Constitution.

Mr. Harper: Well, I think you applied it. You left out the word "Ireland." You referred everywhere to the jurisdiction of the Government of a separated Burma

U Ba Pe: You mean the other day?

Mr. Harper: Yes. Then there is a possible definition which I think would apply as much to Burma-born nationals as to citizens under the contemplated definition. Mr. Haji just now quoted from a book of Professor Berriedale Keith: "Dominion Autonomy in Practice." There Professor Keith says this:—

"But it must be noted that . . . as British subjects nationals of the Dominion enjoy important treaty rights, and that insistence on their distinct nationality might result in the withdrawal of those advantages."

That, I think, is the point—the insistence on distinct nationality. That is all wrapped up in this question, and that is another point on which I should like your views.

Then there is also the logical sequel that the acceptance of Burma "citizenship" might, in practice, undermine the right of the United Kingdom community in Burma to look to the British Government for aid in redressing any grievances from which they might be suffering,

the European minority community differing of course, from any really Burman community by the fact that its members have their domicile in the United Kingdom—that is to say, their permanent home is in the United Kingdom, and they would only be in Burma temporarily—it might be 20 or 30 years, but it would only be temporarily, because they might eventually return to the United Kingdom. They have that attachment to the United Kingdom which gives them the right at present to look to the British Government for any aid of the kind I have in mind when they are outside the actual territories of the United Kingdom, and it gives the British Government the right to care for those interests of theirs. That is a position which I think you could not ask any British subject to give up. This is, perhaps, a narrow position as regards the United Kingdom community only, but it must be remembered that India herself has claimed a wider right than this, for India has intervened repeatedly and successfully to establish the rights, for instance, of Indians in South Africa, and has, I think, even gone so far as to claim to intervene on behalf of Indians actually born in South Africa and domiciled there. Now, that is a right which I think perhaps Burmans would not lightly want to give up.

These are all questions, My Lord, rather than statements. I come from a cautious race, and I am very disinclined to accept a definition of this kind for the purpose for which it is intended without knowing how far it really may lead, and it seems to me also to be an unnecessary complication to add to the situation, because we can, I think, quite well satisfy the question of political rights without having to adopt a definition of "citizen." I think that Major Graham Pole's wide definition covers the normal rule throughout the British Empire—that is to say, that any subject of British nationality who has acquired a very short residential qualification is entitled to a vote in any part of the British Empire. The example of Ireland is an exception, and I am not yet persuaded that there is any reason why we should take this one exception and apply it to Burma. U Ba Pe said, I think, just now, that Canada's definition of "citizenship" was intended to affect political rights. I understand that that is not so. There is one more quotation which I have yet from a book called "The English Constitution" by Sir Maurice Amos. Talking of Canada it says that:

"Canada has been led to define Canadian citizenship"—
this is the same point, but I want to repeat it once more—

"resting on birth or on domicile in the Dominion, for the purposes of the control of immigration, and of protecting Canada's distinct rights in respect of membership of the Permanent Court of International Justice. But Canada does not refuse political rights to any British subject."

That, I think, was the point that was made by Major Graham Pole. I should be very glad if all these points could be cleared up, because at present I cannot support this suggestion of "citizenship."

(The Committee adjourned at 1-15 p.m. and resumed at 2-45 p.m.)

Tharrawaddy U Pu: My Lord, as you remarked many times in the course of the debate this morning we must confine ourselves to the question of the exercise of the franchise and the conditions under which a person can be enfranchised. My friend dwelt largely on the question of nationality and the question of domicile. I do not think

that we need dwell at length on the question of nationality or domicile. I think that at the present we ought to confine ourselves to the question of "citizenship" and the question of "citizens' rights." The question is who should be given the right of exercising the vote. When I talk about exercising the vote it must be remembered that the matter does not stop there. If you grant a person the right to exercise the vote, that person would be entitled to become a member of the Parliament or the Legislature of the country. In Burma, payment of the capitation tax entitles a person to exercise the vote. The same payment of capitation tax entitles a person to become a member of the Legislature. Therefore, to grant a person the right to vote is an important thing. You have a rule in this country that an outsider coming over to England will not be permitted to exercise the right to vote unless, and until, he or she has resided in England for six months.

Chairman: It is three months I think.

Tharrawaddy U Pu: Thank you very much, My Lord. I was under the impression it was six months but there must be some reasons for this period of three months. There must be reasons and very good reasons, weighty reasons, why you impose such a term of three months before an outsider can exercise the vote.

Chairman: Is it too long do you think?

Tharrawaddy U Pu: Your case is quite different when it is compared with our case, the case of poor Burma. You occupy this small island but you are one of the most powerful nations in the world. You occupy this small island which is very cold and so it would not be tempting to the people of other countries to come and reside here. Our country is not like that.

Mr. Wardlaw-Milne: Burma is very hot and so it is not tempting for other people to go and reside there.

Tharrawaddy U Pu: Not very hot, just a sunny place. It is a pleasant country. People like me would think a hundred times before coming to settle down here. A small country like Burma. . . .

Chairman: Small! It is as big as France and Germany.

Tharrawaddy U Pu: It is small in the sense that we have only a small population compared with yours. You have forty-five millions, whereas we have only fourteen and a half millions. We are powerless at present, whereas you are very powerful. Our country is such that it holds out inducements to the people of neighbouring countries which are very big compared with Burma. We have China on the north and India on the west and also on the north. Please remember the number of Indians settled down in Burma, the number of Indians who come to and go from Burma, and the Chinese also. There are some Chinese settlers. There are Chinese people who come to Burma and earn their living, and after a year or two go back to their own country with Burma's money. The franchise is an important thing, and unless a person has an interest in any country he should not be allowed either to exercise a vote or to become a member of the Legislature of that country. He must have some interest there, some interest which is not casual and temporary but abiding before he should be entitled to exercise the vote. Countries like Canada, Australia, and the Irish

Free State have thought fit to prescribe a term like five or seven years before a person is allowed to vote.

Chairman: The period in Australia is six months.

Major Graham Pole: In Canada it is only one year.

Tharrawaddy U Pu: In Burma we should like it to be seven years during the transitional period.

Chairman: Let us be right on the matter of fact. British subjects who live continuously in Australia for six months get the vote.

Tharrawaddy U Pu: But when you first gave self-government to Australia, what rule was imposed in this respect?

Chairman: I cannot say at the moment.

Tharrawaddy U Pu: During the transitional period we should like the term to be seven years. After some experience we will try and reduce it from seven years to one year or six months or three months, as the case may be. We shall become wiser after gaining that experience. We are determined to ask Your Lordship and His Majesty's Government to have a period of not less than seven years.

May I in this connection refer to Ceylon? Only the other day we were told of the Ceylon type of government, where the citizen's right was restricted to five years' residence.

Major Graham Pole: In Ceylon there is no difference of citizenship there.

Tharrawaddy U Pu: I was talking about franchise.

Major Graham Pole: Well, that is six months, is it not, for British subjects not domiciled in Ceylon?

Tharrawaddy U Pu: No Sir. You may be wrong; I am reading here; this is printed matter and it cannot be wrong. It is also a Government authorised book. Under these proposals therefore the conditions governing the grant of franchise would exclude only those who are not British subjects, are not of the age of 21, or have not resided in the island for a period of five years.

Major Graham Pole: Are these recommendations or the actual Constitution?

Tharrawaddy U Pu: We take it from recommendations by no less a person than Lord Donoughmore and Committee. He is one of the big men, like you all, and his opinion must carry weight to a certain extent.

Major Graham Pole: Yes; but although these were the recommendations, what is in the actual Constitution?

Tharrawaddy U Pu: I have not got it. I am open to correction in regard to the provisions of the Act itself.

Major Graham Pole: I think you will find it is six months in the Act.

Tharrawaddy U Pu: Let us know; thinking will not make it sure.

Major Graham Pole: I will make sure

Tharrawaddy U Pu: We may be wrong; we are only human.

Major Graham Pole: The Ceylon Constitution says:—

“The possession or enjoyment of a clear annual income of not less than Rs. 600, during a continuous period of six months immediately prior to the first day of August in that year.”

They do not deal with citizenship at all. This is for the franchise.

Tharrawaddy U Pu: For the franchise they must have resided there for five years; that is one of the recommendations.

Major Graham Pole: Yes; but it is not in the Constitution; the Constitution says six months.

U Ba Pe: These are the Orders-in-Council relating to franchise.

Major Graham Pole: This is the Constitution of Ceylon, 1931.

Tharrawaddy U Pu: One by one. Let us read this.

U Ba Pe: This is what I find. I will read it out.

Chairman: What are you reading from?

U Ba Pe:

“No person shall be qualified to have his name entered or retained in any register of voters in any year if such person—

(a) is not a British subject; or

(b) was less than 21 years of age at the commencement of the preparation of the register; or

(c) has not for a continuous period of six months in the 18 months immediately prior to the commencement of the register resided in the electoral to which the register relates.

It is not six months, but six months in the 18 months previous.

Major Graham Pole: I do not know from what you are reading, but this is the actual Constitution of Ceylon.

Tharrawaddy U Pu: This is the Order-in-Council putting the Constitution into operation.

Mr. Wardlaw-Milne: We had better have it from the Blue Book I think.

Major Graham Pole:

“Any person not otherwise disqualified shall be qualified to have his name entered in a register of voters in any year if he—

(a) is able to read and write English, Sinhalese, or Tamil, and

(b) has or holds one of the following qualifications, *viz.* :—

(i) The possession or enjoyment of a clear annual income of not less than Rs. 600, during a continuous period of six months immediately prior to the first day of August in that year.”

These are the actual terms of the Constitution.

Tharrawaddy U Pu: The recommendation—if you call it recommendation—reads like this:—

“(c) have not resided in the Island for a period of five years and have not, during the whole of a period of six months in the 18 months immediately prior to the commencement of the preparation of the register resided in the electoral district to which the register relates.”

Two things are shown here.

Major Graham Pole: I beg your pardon; may I correct it, because I have read the provision for non-domiciled electors, and I think I ought to read the general qualification for voters domiciled.

Tharrawaddy U Pu: Am I right?

Major Graham Pole:

“Any person not otherwise disqualified shall be qualified to have his name entered in a register of voters if he is domiciled in Ceylon or if he is qualified in accordance with Article 8 or Article 9 of this Order; provided that, except in the case of persons

possessing Ceylon domicile of origin, domicile shall not be deemed to have been acquired for the purpose of qualifying for registration as a voter by any person who has not resided in Ceylon for a total period of or exceeding five years "

Tharrawaddy U Pu: Thank you: I am right, I think.

Chairman: I think it is " or." Did you say " or " under some article? There is an alternative, I think.

Major Graham Pole: Yes. Article 8 follows, which is the one I read.

Chairman: Then it is alternative, either domicile or residence.

Major Graham Pole: Unless it is qualified. If he is domiciled, that deals with him. If he is not domiciled then the article I read deals with him.

Chairman: Yes, it is alternative, I think.

Tharrawaddy U Pu: Domicile or—?

Chairman: Or six months' residence

Tharrawaddy U Pu: Six months' residence plus what—plus property qualification. I am right, then. Either he must be domiciled or he must possess property

Chairman: And residence.

Tharrawaddy U Pu: So the fundamental principle is, I take it, that unless a man has an interest in the country in which he happens to be, he should not be allowed to meddle with the country's politics. He should not go to the polling station, he should not stand as a candidate at all. He must have some interest, and in the case of Burma I submit that he must not only have some interest but he must have an abiding interest before he is allowed to exercise a vote.

Now, my friend Mr. Harper mentioned about copying certain provisions from the Irish Constitution, and perhaps, if I understood him aright he meant to say that we should not and need not, as loyal persons, copy the Constitution of Ireland, because the Irish people, in prescribing the Oath for their guidance, did not prescribe a form of Oath similar to the form of Oath which is in existence either in this country or in other self-governing Dominions—that is, they did not emphasise the allegiance to the King as they emphasised it in the form of Oath of Allegiance in other Constitutions. I take it that is so is it not?

Mr. Harper: I understand that that is the oath in the Irish Free State.

Tharrawaddy U Pu: Therefore, you said we need not copy the form of Constitution which was evolved by the Irish people. Well, I do not know what Mr. Harper would say about Canada. The form of Oath in Canada is just the same as the form of Oath in this country or in our country. We have got to take the Oath in our country too. Before you become a Member of the Legislature you have got to take an Oath. I do not know what my friend Mr. Harper would say in regard to that. Therefore the Oath should not be taken as the criterion in deciding whether one nation ought to copy the type of constitution existing in another country. Then again my friend asks whether the firms would be entitled to exercise the vote. This is a

matter of minor detail. It can be decided by a Committee or by the coming Government. I do not think this Conference should go into such a trivial question.

Mr. Harper: I said it is difficult to bring firms into a definition of citizens; that is all.

Tharrawaddy U Pu: I think this matter should be left to the discretion of the next Government.

Then, when we talked about seven years there was a suggestion that a certain allowance should be made to the Europeans or to other nationalities apart from my friends the Indians. Why should the Indians alone be singled out? Why should there be a law for them prescribing twelve years before they are allowed to vote? I do not agree with my friend. There should be no discriminatory legislation. There should not be one law for the Indian and one law for the European. I am sure you will all agree with me when I ask you to prescribe only one law either for Europeans or for any other nationality in Burma. Then I would ask if Mr. Harper and my friends who hail from the same country not to expect more than you could expect in the self-governing Dominions. For instance in Ireland, you know what rights you have. "You" means European or British. The same applies in Canada and the other self-governing Dominions.

You cannot expect from Burma more than you could expect from other self-governing Dominions, so I beg of you not to expect too much from Burma. You can only expect to get from the Burmese people as much as you can expect from the self-governing Dominions and no more.

I am not going to discuss the question of small nations being swallowed up by big neighbouring nations. That question need not arise at this stage. As you have remarked, this question may come up when the new Government has to consider the question of emigration or immigration. I do not think that the consideration of it should come in here while we are trying to prescribe rules for the exercise of the franchise. Of course we are a small nation as we have told you. With free entry into the country I am sure the Burmese nation would be put into the melting pot and the Burmese nation would be extinct in no time. There was a great man called Mr. Hussein who was a member of the old Governor's Council and his son is Muhammad Rafi. His father at one time wrote an article in the Times Annual Issue. He wrote that Burma is nothing but a melting pot of races and that Burma as a nation will become extinct in a few years' time. That is what he wrote. The Chinese would come there, the Indians would come there and your people also would come there so that after a time you would not be able to find a pure Burman. There is the difficulty. Therefore, we ask you to grant us Home Rule before Burma as a nation is extinct; to grant us Home Rule so that we may be able to draw a line where the foreigners would not be able to take our sisters. I am not speaking against the British or against the Chinese or against the Indians, but Burma is a melting pot of races.

Chairman: Was he right? Very often people are wrong in their prophecies.

Tharrawaddy U Pu: I may be alone in this respect but I think he was right.

Major Graham Pole: I thought that you prided yourselves on the fact that you could assimilate other races.

Tharrawaddy U Pu: It is not a question of assimilating other races. We would be overwhelmed. You have 350 million Indians and 450 million Chinese. Where will the 12 millions Burmans go?

Mr. Howison: Has not the Burman population increased during the last ten years.

Tharrawaddy U Pu: I doubt that very much. I have been trying to find out whether there has been a real increase.

Mr. Howison: Does not the census show it?

Tharrawaddy U Pu: It is about the same, you can take it from me. Therefore, I appeal to Your Lordship for this measure of protection for which we ask, and I can assure you that we shall always remain loyal to the King-Emperor.

Mr. Wardlaw-Milne: I find myself often in agreement with Tharrawaddy U Pu, but particularly in agreement with him to-day when he began by comparing the delights of Great Britain under the climate we are now experiencing with those of Burma. The comparison he makes might not be so favourable to Burma if he made it, say, next April, when it would be unpleasantly hot there and possibly just warming into summer here.

The discussion to-day, it appears to me has covered two separate subjects, although it is true that we have continuously and, perhaps necessarily, mixed those two subjects up. I think the question of the franchise is really rather a different one in every aspect of the case from the question of what has been so loosely described as "citizenship." But before I touch on the matter to which, I understand, we should strictly confine ourselves, namely, that of voting, I would like to say that I do think this Conference would be well advised if it followed the counsel which Major Graham Pole gave us at the opening of this discussion to drop dealing with domicile. It is the most hopelessly difficult task to define what domicile is, and I think we at any rate shall assist you, My Lord, in the preparation of any report if we make it clear that we are not prepared to try and do what, so far as I know, no lawyer of any eminence has done in any part of the world, and that is clearly to define domicile. But I am bound to say that I think the definition we got this morning from Major Graham Pole was much the best I have ever heard.

If we drop that we get back, it seems to me, to a fairly clear issue on the first point. I think we should lay it down perfectly clearly, when we are dealing with the question of "citizenship," that every subject of His Majesty will be free from any kind of discrimination in Burma, that the unity of the status—if I may so express it—of the British subject will be preserved. That, I think, should be our first definite proposition. But it is equally clear that every part of the Empire, although it may accept that general proposition, must be at liberty to make such sub-division as may be required to deal with the peculiar situation in the different parts of the Empire. By that, I mean that, although the unity of the nationality of a British subject must be preserved, it is equally clear that even within the Empire, one part of the Empire is entitled to say that it is not going to be economically ruined by being overrun even by people from another part.

I have the greatest sympathy with the idea which has been expressed so much this morning, that Burma should be retained as much as is reasonably possible for the Burmans. I think that is a perfectly natural conclusion for any people to arrive at, and considering that we are now very busily engaged in this country in watching closely the immigration of other peoples into Great Britain which may affect our economic problems, it is clear that it would not be right or just for us to withhold our approval of the same course to others. But when you come to a question as to how you are to do that, I do venture to say to the Conference that we are wandering in quite a wrong direction when we begin to mix that up with the question of voting. It is entirely proper for Burma to say: "Owing to certain conditions which may exist we must prevent the immigration of more than a certain number of foreign people, because it makes our conditions impossible." But that should be dealt with by the immigration laws. To my mind it is nothing to do with the question of voting, and I do think the first thing we ought to get clear is that these are two separate and distinct subjects.

If Burma wishes, let her have the power to deal with immigration and to limit the number of people who may come in. That seems to me to be a perfectly reasonable attitude to take up. But I am very anxious that Burma should not go wrong in this respect. I am very anxious that, while she does that, she should not mix it up,—I want to repeat it again—with the question of nationality. That is an economic question; that is a question that she has to look at from the point of view of her future development. The only reference I want to make to it further is this, that this talk which I have heard a good deal of this morning of the exploitation of Burma by other peoples has another aspect. How much does Burma owe of its development to other peoples? And, looking at the thing from the broadest point of view, is not the Burman wise to consider that he will owe more in the future possibly than he has even done in the past to the development which is carried out by other peoples?

I would urge the Burmans of this Conference not to take too narrow and parochial a view of this matter. Burma may benefit a very great deal more by the development of other people than she realises. It is all very easy to say that people come to Burma, exploit the people and take away their wealth. How much wealth do they develop that Burma enjoys? Burma enjoys by the employment and all the rest of it that is given while they are there, and also continues to enjoy possibly after they have gone, by the development of new industries and so on.

Tharrawaddy U Pu: Burma enjoys it—not the Burmans. That is the question.

Mr. Wardlaw-Milne: I have not come to that yet but I hope to be able to deal with that in a moment. Perhaps I will deal with it now. You say Burma may enjoy it but not the Burmans.

Tharrawaddy U Pu: Yes.

Mr. Wardlaw-Milne: Well, let us take that for a moment. I have been told, I think it was U Ba Pe who gave me the figure, that there were nearly 15,000,000 Burmans in Burma. I find in a paper, which has been circulated to all the members, that the total number of

Chinese is 121,000 and the total Indian population is 955,000. So that there are 15 Burmans to one foreigner, roughly speaking, who are going to enjoy it. So that you are at any rate enjoying it 15 times as much as the foreigner.

Tharrawaddy U Pu: No, you are wrong.

Mr Wardlaw-Milne: But I do suggest that you must take a longer view than merely the life of one individual. You are dealing with a country which goes on when we are all dead and gone. The development of the country is not for the lifetime of any one human being; and unless you suggest to me that the Burmans are so backward, so lacking in industry and in enterprise, that they will never, with all the advantages that they enjoy by being always on the spot, acquire anything, but it will all get into the hands of the foreigners, then indeed I cannot see any argument as to the fact that Burma itself will not enjoy, these advantages.

Another point, My Lord, as we are on these figures is this. In this statement there is another curious fact that has not been brought out today. That is this, that, taking for example, the Chinese population, I find that no less than 94,000 out of 121,000—that is over three quarters of them—are described as permanent residents. So that on any basis, whether you have it as 2, 5 or 12 years, those people are all citizens, assuming for a moment that they are British subjects; we do not know that, but assuming they are. So that out of 121,000 of one class of non-Burmans—I do not like the word “foreigners”—over three-quarters of them are unaffected by any change that you may make at the present moment on the proposals that have been laid down.

Again, I see that over one-third of the Indian population was born in Burma. So that, as I understand it, assuming that they are all British subjects for the moment, the total number of people of these two communities who would be affected by these proposals that have been put forward this morning amounts to 583,000 Indians, plus approximately 62,000 Chinese. In other words, it is something like 600,000 people against 15 million Burmans. On the face of that, I do ask how can one say, as someone said—I have forgotten whether it was Tharrawaddy U Pu, or whether it was my friend U Ba Pe—that the Europeans (and I presume he meant others) were gaining experience at our expense? Well, the total of the whole population that would not come into your Burman citizenship is so small that in reality you are making a tremendous lot of talk and expressing a desire to go out to all sorts of new regulations quite unknown to the rest of the Empire for a population which is fractional in the total population of Burma.

Then Tharrawaddy U Pu made a great point of the fact that here is this dying population—I know he will not mind my paraphrasing him—I do it in great friendliness—and he made a most moving appeal about poor little Burma squashed out, with this dying population gradually being forced out of their own country, the few that are left, this dwindling population of Burma—

Tharrawaddy U Pu: I must commend your method.

Mr. Wardlaw-Milne: I hope you will, and I hope you will pay tribute to me as I do to you in copying your method. Burma crushed

out between these masses of Chinese on the one side and Indians on the other, this rapidly disappearing population—which in 1901 apparently totalled nine millions, in 1911 10½ millions, in 1921 11½ millions and in 1931 14½ millions.

Tharrawaddy U Pu: How many Burmans?

Mr. Wardlaw-Milne: This is Burmans.

Tharrawaddy U Pu: No, not 14½ millions of Burmans. That is all nationalities.

Mr. Wardlaw-Milne: Well, I can take the others; it is not very difficult. From 1922 to 1931—I will take these two years; I will put it in a simpler manner—from 1911 to 1931 the total population of Burma grew from, roughly speaking, 10½ millions to 14½ millions, grew by four millions. These are figures which I have just asked for; they are just as much available to everyone else; I never knew of them before. The Chinese population grew in that same period, 1911 to 1931, by 72,000. The Indian population in the same period grew by roughly 130,000. So that 130,000 and 70,000 is roughly 200,000 out of 4 millions. That is the growth of the non-Burman population. The Burman population has grown in fact by 3,800,000 in these 20 years, and the foreign population has grown by 200,000. Where is this miserable little Burma, this dying population? My Lord, really I think we might get back to real facts.

U Ba Pe: Just one word. Can you elucidate further on a percentage basis—the percentage increase of Burmans as against others?

Mr. Wardlaw-Milne: The Chinese have increased, I am told, by 30 per cent. between 1921 and 1931—that is in the last ten years—and the Indians have increased in the last ten years by 0.3 per cent. There is practically nothing in it. They have increased from 6.7 per cent. to 7 per cent. in the same period. Anyhow, the whole thing is at this date very small. So boiled down it comes to this, that dealing with the present and the past, Burma has no fear whatever, if her children are of any value in the world at all, of being pushed out by these masses of foreign people. If, on the other hand, it is not the past or the present that is worrying these gentlemen, then it can only be that they fear for the future. Well, I think, as I say, that the way to deal with that is the way it is dealt with by every other part of the British Empire, and that is by suitable immigration laws if there is any real necessity for economic reasons for Burma to pass such measures.

Let us be perfectly clear. What Burma owes—I say it once again—to these non-Burman people is a thing which it is well to remember. Burma will benefit more than likely, provided things do not get out of proportion by the assistance and capital that she can get from outside. Any action taken by the new Burman Government of a narrow or parochial character which will prevent the development of the country will be all against the interests of Burma herself. There is a second thing that I want to say on that point and it is this. Speaking for myself, I want to make it perfectly clear that I would never be a party to any arrangement which did not make within the limits I have described, Burma free to every citizen of the Empire just as I want to make the rest of the Empire free to any Burmese citizen. I say within the limits I have described, because there must be liberty to

every part of the Empire to limit population where it is found to be economically necessary.

I hope you will not think I have strayed too far from the question of the vote, but these are the subjects we have been discussing. I agree entirely with what Tharrawaddy U Pu said regarding the question of citizenship when he said that having the right to vote meant also the right to sit and take part in the Councils of the country and that, therefore, it is very important.

With the consent and, if I may add, with the help of Major Graham Pole, who has kindly lent me the book, I should like to put as clearly as I can, the position which we find in Ceylon. There have been some things said which did not seem to me to clarify the position. I have looked through the paragraphs in order that I may be able to make as clear as possible what exactly is the position. The vote is obtainable by any person in Ceylon who is able to read or write English or the other languages usually spoken there, provided he is the owner of property to the value of Rs. 1,500 or has an annual income of Rs. 600—in either of those cases—or is in occupation of any house, shop, office (I am not going into the whole of the details), or warehouse which in a town is valued at Rs. 400 per annum and in the country (I am not using the words of the Statute) at Rs. 200 per annum, and, if further, he has been in occupation of such house or shop or other premises for six months. That is the only qualification necessary beyond the fact that he is able to read or write in the way I have described. He can become, as it were, a permanent citizen of Ceylon, because there, apparently, they are not afraid as I should be, of the word domicile. He can become a permanent citizen by getting a certificate of permanent settlement. In that case he applies, I suppose, to the collector and says he has been in the country five years and now wishes to declare himself a permanent settler. In that case he can get a permanent certificate which I presume makes it unnecessary for him at the time of the election to produce other qualifications such as ownership or income. That is apart from those who have what is called a Ceylon birth domicile, a domicile by birth. There is no legal period required for the ordinary citizen who has an ordinary occupation to give him an income which is not a high one, or at any rate not an extraordinary standard for a town, or who occupies a shop in the country of the value of Rs. 200. If he has that, after six months he gets the vote.

All through the Empire you see similar conditions, that provided a man is paying taxes, working in the place, enjoying certain wages or other income, and provided he has been there for a year—in the case of Newfoundland only for two years, but in almost all the rest of the Empire six months or one year—he is entitled to a vote. In face of that, and in view of what I have said as to the small total of Burman population that is really affected by the measures that can be passed, I do suggest that to talk of five or seven years is both unwise and unnecessary. It would be the greatest mistake for Burma to put up some sort of idea which is totally foreign to the rest of the Empire, nor is there any necessity for it. I want to make it perfectly clear that if you have a population working in the place, which you have encouraged or permitted, or in future do encourage or permit, to come in and work there, to trade there, to develop industries, and to carry out the duties which you allow them to carry out in the country, they

have a perfect right to vote, and you have no right to say to them, "You must now decide whether you are going to be permanently and for ever resident in Burma."

Tharrawaddy U Pu: What about the position in the Irish Free State?

Mr. Wardlaw-Milne: If Tharrawaddy U Pu had lived in this country a little longer, he would know that there is no human being, whether Scottish or English, who will ever explain why an Irishman does anything. But I do know this from what I am told, that there is nothing definitely decided in Ireland at all, and it is probable—this is merely my information, which is open to you and may not be accurate—it is quite probable that these provisions in the original arrangement in Ireland may be altered. But whether that is so or not, nothing would induce me to endeavour to defend or explain anything that happens in Ireland.

When we get back to the question of who is to vote, I want to repeat what I have said before—I know this will not be popular—that I do not think you can begin adult suffrage in Burma in the near future without disaster. Do not go so fast. We are very slow in this country, but like the tortoise, we get there in the end. It is a great pity to try and go too fast. You want to be able to put up the machinery that will enable you to have an efficient, effective voting system. If you try and suddenly rush into any form of adult suffrage, you will imperil that result. Stick to your property qualification in its present or some other form. It has been said that you will start by doing away with the capitation tax. I do not know what your form may be, but do not try and go too fast. You have a large number of ladies in Burma who are extremely anxious to press on with these matters. Do you not think that if you are going to enfranchise all the women who have the same qualifications as the men, or, as I would add, the widows of men who have had the qualification, you will have quite enough to do for some time to come? It would be very wise if this Conference decided that it would follow the procedure in the matter of giving right to vote which more or less obtains in the rest of the Empire. You should not go too fast about adult suffrage. You will find that it has not such advantages for you as you had thought. I speak as one who has a good deal of experience with regard to it. Do not go too fast. Those of you who are politicians will regret it if you do. But, joking apart, there is the mere fact that you have got to put up a machinery that will work effectively. You must have a machinery to operate which you can find the necessary officials, whoever they are. I use the word "officials" in its widest sense.

I therefore strongly suggest that you adopt for "citizenship" a period such as a year, or, if you want it, at the outside two years. I personally prefer a year, and some such system as applies in Ceylon. As regards voting I suggest that you do not go to adult suffrage for some little time to come, until you have had experience of your enlarged franchise under the present system existing in Burma.

U Chit Hlaing: My Lord, at first I had no idea of taking part in this debate on the question of franchise and of "citizenship." But I find my views differ greatly from those of my Burmese friends who

have taken part in this discussion. As a man who has non-co-operated with Government since the Government of India Act came into force in Burma, on behalf of those who have not taken part in the voting or have entered into the Council for the past nine years, I submit I have some reasons to say why we should take part in the future constitution of Burma in regard to franchise and "citizenship."

My friends have clamoured very loudly for the definition of "citizenship." That phrase "citizenship" was brought into prominence a few months before the coming of the Simon Commission into Burma. Since then some of my friends have taken part. They said: "Oh yes, we must frame a constitution." At the time the idea uppermost in their minds, I tell you was to separate Burma from India. With that in their minds, Indians were the foremost in that policy; they said: "We do not want India; we want to separate Burma from India." With that you will find the 20 years or 25 years limitation came into play. Now saner counsels have prevailed and my friend U Ba Pe has suggested 5 years or 7 years or 10 years since he came here. There you are; saner counsels have prevailed in the course of two or three years. I think after their return to Burma still wiser counsels will prevail and we may possibly limit the limitation to something like two years or three years. I, for one, would suggest following the principle given by Mr. Wardlaw-Milne: something like two or three years. I consider three years as a maximum and two years as the minimum.

Why should our friends from the other country be affected by the new franchise? Because they have got the right to vote and to stand for election under the present rules, why should they be deprived on account of the new Constitution, simply because we want limitations in such a way as to prevent their taking part in the new Constitution?

As regards immigration, I know all these people who call for separation are dead against the Indian immigration into Burma, and my friend Tharrawaddy U Pu quoted a statement of some years back that Burma will be swallowed by the Chinese millions and Indian millions. The Burmans could never be swallowed. In fact, I am not really claiming to be a Burman. I have not got a drop of real Burman blood in me. I have got the Mun blood, that is, the Talaing blood. You will find the Mun population there. We still come in under the homogeneous races. Still, for all that I say the Muns cannot be swallowed up, nor can the Burmans be swallowed up by Indian millions or Chinese millions. Their population in the last twenty years has shown that there has been an increase in the Burmese homogeneous races also, and that is really the very reason why immigration, immigration, immigration is uppermost in the thoughts of a few people—because they want separation from Burma. That has been the outcry for the last three or four years.

Some may say that I was a party to the idea of separation from India some years back. Yes, I was. That was the time when some of our friends interviewed Mr. Montagu and Lord Chelmsford in Calcutta. Circumstances have changed, and our ideas have opened up, and we see that it is not fair that we should be insisting on keeping out Indians from the fields, especially when we know as a fact, that Burmans owe a great debt of gratitude to the Britishers, as well as to the Indians, for financing some of Burmese industries

as well as Burmese agriculture. As regards the amount that it involves, that is another question; but there it is. I am one who has at least 25 to 30 years' experience about the money-lending business because my father was a great money-lender himself. I know, as he knew, that money-lenders had to take the paddy lands, the garden lands, the house properties from their original owners, not because they wanted those properties, but because they had to foreclose their mortgages when people would not pay, could not pay, their debts. Money-lenders and money-owners never care to have that property, but they have to do it by force of circumstances. Therefore, I assure the Conference that, though I have been a barrister for the last thirty years, my time has been devoted greatly for fourteen years as a full time agent of my father, who was dealing in lakhs of money in the money-lending business and in the paddy business. Therefore, I speak with authority when I say that I know more about that business than most people. I knew Steel Brothers and Bulloch Brothers. Mr. Frank Steel himself was a personal friend of my father, and when I was here as a student I knew him. Therefore, I have a great feeling for the Europeans, as well as for the Indian people, who are in Burma doing their business. They ought to be safeguarded, and I assure you that it is not fair of my Burmese friends, simply because they, in their innermost hearts, say they are in fear of immigration from India, so they want to restrict their term of life in Burma to be 7 years, 12 years, 20 years, 25 years. I say, none of that. I submit that it is only fair, as suggested by Mr. Wardlaw-Milne, that it should be one year. I think really, with all due respect to his opinion, one year is too short, and I think two years as a minimum and three years as a maximum should be used for the purpose now till we know how things stand as we go on with the new constitution. Otherwise, if you try to restrict our franchise in such a way as Lord Lothian reminded us the other day, and also this morning, there will be turmoil in Burma. I know, because people expect too much. They say, "We want this franchise, that franchise, and the other franchise". We may go back with a constitution which we may not be able to work, especially when we know the franchise is restricted in that form, a very moderate one, from which we have no comparison whatever with the present one which we have. The present franchise is fairly reasonable now, though there may be certain alterations that should be made in respect of certain persons; but these details, I submit, ought to be left to the new Government, who will be in a position to say what little modifications should be made.

When you speak about adult suffrage, I think there is a good deal to be said in favour of adult suffrage but there are disadvantages in having adult suffrage to begin with. I think adult suffrage will do well after we have tried the new Constitution for a time. As regards the definition of "domicile" and the interpretation of that word I think I may say that the question of domicile was first raised in Burma some 15 years ago, when some representatives of Burma went to see certain people. It is quite likely that when some of our Burmese representatives went to see Mr. Montagu and Lord Chelmsford in Calcutta some of the Burmese said "Oh, he is not a Burman". Then some others said "Yes, he may not be a Burman.

but he is a domiciled Burman ". That is how the question of domicile came into play in Burma. That question of domicile was never thrashed out and never has been thrashed out in Burma because we have found it too difficult to define who is and who is not a Burman, and the question has been too difficult to get a proper decision by any man of any ability.

I am a lawyer and, as has been pointed out by Major Graham Pole, the definition of domicile is really a difficult legal problem. It may lead to a lot of unpleasantness between various communities and parties. The definition is really very puzzling and the word can be interpreted in various ways. My submission is that the less we use the expression " domicile " the better it will be for our present purpose.

Major Graham Pole : I think you had better come over to this side.

U Chit Hlaing : It may be said that I should be on that side but I want to be fair. I am not speaking now for any man who takes part in the Legislature. I am speaking from my experience of ten years as a man who has watched the progress of the dyarchic system. I am speaking as one who has been in touch with those people who do not take any part in voting or in the Council. I am expressing their views. They really do not care. There are some people who will never care to vote whether they have the right to vote or have not the right to vote.

For myself, I do not think I can come under any category with regard to voting. According to the present category, those who are allowed to vote are people who pay capitation tax or income tax. I pay neither. That is my position. As a barrister who does not practice I do not earn any income, and therefore I cannot be an income tax payer and cannot have a vote on that account. I reside outside Rangoon, and I carry on my work in Rangoon for nothing. I am not in receipt of any income from carrying on business in Rangoon, and I have no residential qualification there. Therefore I am in the dubious position of paying neither income tax nor capitation tax. I am not even interested to see whether my name is on the voters' list, because I have no faith in voting for anybody. That is the position I have taken, because, under the dyarchical system of government, I think it is useless to vote at all. That is my view, and it is the view of many people who have not taken part in the elections during the last nine years, not having voted on any of the three occasions. Nor will I stand for election. I do not want to be nominated either. I do not want to take part in the Legislature of the country, because I have found that the system which has been in existence is not compatible with the country's benefit. But if there is a reasonable constitution in which we could take part, it would be for the country to say what part we should take. I would leave it to the country to decide whether they would accept such a constitution, and if they did accept, there are certain influences which might induce me or my followers to take part in the election and vote under the new constitution. Therefore I submit to you, My Lord, that although it has been an unpleasant duty to disclose so many things about what has happened, or to predict what is likely to happen, I stand by my views, they are really honest views to which I have given expression. I know that there will be disagreement with and complaint of such exposure, but there it is. I have done my duty to my country.

U Ba Si : My Lord, before I say anything else, I would like to ask one question of Tharrawaddy U Pu. Is he in agreement with U Chit Hlaing in his views?

Tharrawaddy U Pu : That is a very unpleasant question. I do not think this question arises.

Chairman : I think it was a rhetorical question, was it not?

Tharrawaddy U Pu : Yes, My Lord; this question does not arise. We are together you see.

U Ba Si : Well, the answer is quite obvious.

I would like to say a few words in reply to one or two points put forward by Mr. Wardlaw-Milne, partially supported by U Chit Hlaing. Of course Mr. Wardlaw-Milne's observations were made from his own point of view. I wish first of all to call the attention of the members of the Conference to the fact that there is a difference between conditions in India and in Burma. In India, apart from the Indians, there is only the question of the Britishers that calls for consideration. The rest are all Indians and are all of indigenous races. In our case we have got not only the Britishers, but also the Indians and Chinese.

My Lord, people looking at Burma from a distance will say : " Well, in the development of Burma, Burma owes such a gratitude to non-Burmans for developing the country, and so on." That outlook will of course naturally present itself to them looking at it from a distance, but I would like to lay stress upon this, that that sort of outlook simply exposes the ignorance of that person as to the real conditions of the people. The position is this My Lord; it is not only the capital that is brought to the country for lending to business; the traders also come; labour also comes. I will tell you what actually happened. On account of the advent of both capital and traders, whatever capital the Burmese originally had was evaporated and lost. Supposing a Burman sets up a shop. Let us suppose he has first of all Rs. 1,000 in his pocket; that is his original capital and he borrows another Rs. 1,000 from a chettiar. With that Rs. 2,000 he sets up his shop. Just near his shop there is a shop owned by an Indian dealing in similar goods. If that Indian had to borrow money just as much as the Burman, he borrowed from among his own people, the Indians, at less interest. Apart from that, there is a difference in the standard of living. So after a year or two or three of competition between the two shops, the Burman out of his Rs. 2,000 capital has only about half left; and the moneylender, seeing the decline of the business, forecloses and takes it over. That is how the Burmese have lost their capital which they originally owned. In agriculture, too, take the case of a Burman who owned 10 acres of land, and who wanted another 10 acres. He borrowed money on mortgage of his lands and he bought that over. Of course, for his work he had simply to rely upon the natural rain. Once in two years or three years there was a partial or a total failure of rain, and he did not get enough to pay his interest. Thus the interest fell into arrears and it ended in the mortgage being foreclosed. That is how he lost his land; and when we speak about the development of the country we must remember the British big firms now there. Of course, the country may be developed, but what do the Burmese

people get? They get only labour wages and nothing more. In this way the Burmese people are pushed out in the economic field; and, if I may say so, we want you, in considering our case, to put yourselves in our position, so that you may see and feel our real conditions. That is why we are asking for protection. That is why this morning all our friends along this side of the table were asking for protection in the way that the franchise should be fixed at so-and-so and so-and-so. It is only these conditions that I wish to explain.

Sir O. de Glanville: My Lord, when Major Graham Pole opened the discussion this morning he dealt in his own way with the question of the franchise, and I think few of us anticipated that we should have gone into so many different, and to some extent irrelevant, subjects, such as the economic conditions, the pressure of Indian immigration, and so on. The point before the Conference at the present moment, I think, is the qualification for the franchise, and Major Graham Pole said that he thought that we would all agree that the franchise should be on the broad principle of British nationality and residence. The Burmese members said they wanted to know the views of those members on this side, and I said quite frankly that I agreed entirely with Major Graham Pole. The franchise is the only point that I think we ought to consider, and we think the franchise ought to be given to everybody who is of British nationality and who is resident and who has, as long as we have not adopted adult suffrage, the necessary property or other qualification; and we are not prepared on this side to recede one bit from that position.

As regards residence, of course, we all agree to residence. If we continued this discussion, My Lord, till to-morrow or the day after to-morrow we might arrive at full agreement, because we started, I may remind the Conference, at 12 years—a reduction of eight years from the original demand from the Burmese side—which was reduced by another speaker to 7, and then U Ba Pe suggested that he might agree to 5 and I am pleased to see that U Chit Hlaing has come down to 3. We are therefore getting nearer to agreement than we have on most subjects. I suggest that the six months is ample. Provided a man resides for six months and pays his taxes during that period it is sufficient residence and sufficient qualification. It is sought to tack on to this question of the qualification of the elector a further qualification of citizenship, which, it has been pointed out has really nothing to do with the present case, but I am afraid that there is something more behind this demand for citizenship than that for fixing the qualification of the elector. The fear on the part of the Burmans undoubtedly is, as disclosed in this discussion, that they are going to be pressed out of business, pressed out of every employment in their own country by people from other countries, and chiefly by the Indians, and in order to counteract that and prevent it happening they want a definition of "citizenship" which will exclude, in the first instance, the non-Burmans from having a vote, which will take away from those who already have it, the vote, and they will then argue from that that these people who have not acquired "citizenship" not only shall not have the vote and shall not be represented in the Legislature, but, in addition, will be excluded from service under Government and will be excluded from the contracts—

Tharrawaddy U Pu: No such question arises.

Sir O. de Glanville:—and excluded from taking licences from Government. That is behind the suggestion, undoubtedly.

Tharrawaddy U Pu: No, no, certainly not.

Sir O. de Glanville: If that is not behind it then why have it.

Tharrawaddy U Pu: It is a different thing. This is only a question of domicile.

Sir O. de Glanville: But it is bound to arise. At no time are we prepared to agree to have the rights of citizenship laid down in any way. It is unnecessary in every way. If we do define citizenship we shall at once be affecting a large number of other questions such as those I have named—the right to employment in Government service, the right to take leases, the right to trade and to carry on business.

Tharrawaddy U Pu: No, no.

Sir O. de Glanville: If that is not so then I can see no reason for defining it. I am glad that my friends should admit it. If they do admit it I can see no force in their pressing for a definition. We have heard a good deal about South Africa, Australia and elsewhere. We know, of course, that in South Africa there has been trouble between Indians and the people of South Africa and I think there has been something of a similar nature in Australia, but to-day we are dealing with the question of British citizenship or British nationality plus residence and property qualification being sufficient for the exercise of the franchise. That does not, I think, exclude the right of the Burmans to insist on reciprocity in that respect. I am not inconsistent in this, because in my first speech in this Conference I think I said that we claimed for the British from England as much freedom in Burma as the Burman has in England. Whether the Burmans would in future be wise to attempt to retaliate especially in countries like India is another matter, but I think that is a matter we need not go into here. As far as this Conference is concerned I think that we should recommend that British nationality plus residence and the necessary property qualification is ample and that there should be no further disability.

Tharrawaddy U Pu: What about residence?

Sir O. de Glanville: I have already stated that. You have come down on your side to three years and there is not much difference now. I consider six months is a reasonable period. I hope you will see the force of that and agree to six months, so that we may have a unanimous decision on that point.

I should like now to deal with the question of Indian pressure and the eruption of Indians and Chinese into Burma. In the memorandum of the Government of Burma to the Statutory Commission (on page 12) it is shown that the percentage of Indians in Burma, throughout the whole Province in 1901 was 5.6 per cent.; in 1911, it rose to 6.1 per cent.; in 1921, to 6.7 per cent., and I am informed that according to the figures of the last census (1931) it has risen to 6.9. That is not a very large increase in thirty years. For three thousand years, we have been informed, Burma has had a civilisation.

Tharrawaddy U Pu: Certainly.

Sir O. de Glanville: But also for three thousand years it has had China with four hundred millions on one border and India with three hundred and fifty millions on the other. This story of Indian penetration is not a new one. It was raised hundreds and hundreds of years ago.

Tharrawaddy U Pu: There were a lot of restrictions in those days.

Sir O. de Glanville: No; no restrictions. We have got the descendants of those people in Burma. They were absorbed as like people are being absorbed in Burma to-day. In the Census Report for 1921, Mr. Grantham, of the Indian Civil Service, points out what has happened during the last thousand years or so. He sums it up by saying; "The common view, therefore, that the Burmese are in danger of losing their country to the Indians is not new, but goes back at least eight hundred years to the twelfth century romance. The romance concerns a Burmese prince who wanted to marry an Indian princess, but the King's advisers stopped the marriage lest foreigners should become too powerful." He goes on: "It is not unreasonable to ask for special evidence that a dispossession which went on so slowly through these centuries when the indigenous races were absorbed in internecine strife is going to have lightning effect now."

That is the position taken up now, that we have got to the stage when, if something desperate in the way of remedy is not reached, Burma will cease to be populated by the Burmans, although they number 15 to 1 at the present moment, as pointed out by Mr. Wardlaw-Milne. I have heard no evidence of that, and I do not think that any evidence can be produced. At the same time we must admit that power must be given to the new government to keep the administration in Burman hands, but I do not think that can be done by the means which have been suggested to-day of restricting the electorate or of dividing the citizenship.

It has been suggested to the Burmese members that they will be in control of immigration. That will help them to a very great extent; but certainly the last way and I think the least effective way in which we could do it would be by adopting this suggestion to deprive those who have political rights of those rights, and to restrict them and to prevent them from carrying on business in the country.

Mr. Cowasjee: My Lord, I shall direct my observations to the short point that we have been discussing as to the qualification of a voter, and I shall not endeavour to reply to the elaborate arguments that have been advanced on questions of citizenship, domicile and so on. They have no bearing on the question at issue and have been sufficiently dealt with by the previous speakers.

Now, in order to appreciate the question of the qualification of the voter, one has to bear in mind that, under our existing rules, we have in Burma what is known as a separate electorate. There is a special electorate for Indians, an electorate in which no person other than an Indian is interested. My friends on the right have directed all their observations against Indians.

Tharrawaddy U Pu. Not only Indians.

Mr. Cowasjee: I am only interested as regards Indians.

Tharrawaddy U Pu. Well, you can say that.

Mr. Cowasjee: And I would submit that as far as the Indian electorate is concerned, my friends on my right have really no interest or say in the matter. The persons who are interested as to who should be the voters of the special Indian electorate are Indians, and none but Indians, and it makes no difference to my Burmese friends whether the qualification of an Indian voter is one particular qualification more than another. That question merely affects the Indian community.

Tharrawaddy U Pu: No, no.

Mr. Cowasjee: And as far as the Indian community is concerned, it desires no alteration in the existing rules. The existing rules have worked since 1921 or 1922, and they have been found satisfactory. Under the existing rules vested rights have been acquired. You have now a large number of Indians in Burma who under the rules have exercised a franchise for the last several years, and there is really no reason why any other rule should now be framed which will have the effect of depriving those persons of the rights which they have exercised from 1921.

Tharrawaddy U Pu: No, no, no such thing—only for new comers: not for old men who are on the roll.

Mr. Cowasjee: Major Graham Pole gave us two tests. First he said a person must be of British nationality. I quite agree with him as to the first test. His expression "British nationality" was somewhat misunderstood. It really means this, that the person must be a British subject. Then he gave us a second test: place of residence. Now residence has been defined in the existing rules. I am not quite sure whether Major Graham Pole will agree to the adoption of the definition which is in the rules framed some time in 1921. The definition of residence in rule 3 reads as follows:

"For the purposes of this part a person shall be deemed to have a place of residence in the Province of Burma if he—

- (a) ordinarily lives in the Province; or
- (b) has his family dwelling house in the Province and occasionally occupies it; or
- (c) maintains in the Province a dwelling house ready for occupation in charge of servants and occasionally occupies it."

Major Graham Pole: Yes, I agree.

Mr. Cowasjee: Then, My Lord, I have nothing further to say. I agree with the two qualifications that he has laid down. He agrees with me that the word "residence" must be used in the sense as defined in rule 3.

U Ba Pe: May I say a few words on the question of the Indian menace in Burma. I am going to read a paragraph just to draw the attention of the Conference to the real state of affairs in Burma. I am reading this paragraph from a report known in Burma as the Suppressed Report. It is supposed to be the notes for a report drafted by the committee which was appointed to confer with the Indian Statutory Commission.

Mr. Cowasjee: A suppressed Report? How can you read it?

Chairman: I was just going to ask.

U Ba Pe: It is a quotation from an official document that I am going to read.

Chairman: Very well.

U Ba Pe: This is in the form of a note:—

"While the unrestricted flow of Indian capital tends ultimately, to 'dispossess the swain,' the continuous flow of Indian labour, however profitable it may be to the foreign capitalists carrying on business in Burma, has the effect of ousting indigenous labour from the Industries and even Agriculture. In paragraph 242 of the report of an enquiry into the standard and cost of living of the Working Classes in Rangoon prepared by Mr. J. J. Bennison"—

he is the Labour Commissioner in Burma—

"will be found a table showing the number of labourers of different races in industrial establishments employing ten or more persons. According to that table, out of a total of 22,547 skilled labourers employed in the whole province in 1921, the Indians numbered 12,533 while the home races only 8,048. The corresponding figures for unskilled labour are 61,983 (Indians) and 19,985 (Burmans) in a total of 85,296. Mr. Bennison, having explained the reasons for the large employment of Indians in industries, apprehends that 'unless the methods of agriculture are improved a keener competition will take place between the Burman and the Indian for a share in the urban life of the province especially in the more skilled occupations. (Para. 244.) He then goes on to point out that 'Every year there is a large excess of Indian immigrants over emigrants and it might be imagined that the excess comes into direct conflict with the indigenous population in competing for work in the various spheres of employment' (para. 245). Indian labour has invaded even the sphere of agriculture, where, as in the industrial sphere, he can, on account of his lower standard of living, always undersell the indigenous labourer, and thus virtually supplant him. The true extent of this incursion is not known to us; but those who have seen the country-side know that the incursion is real and growing.

From the strictly racial point of view, also, Burma's political subordination to India has produced harmful consequences. Unrestricted Indian immigration has led to much intermixture of blood and the resultant deterioration of the race. Although the problem cannot be said to have assumed serious proportions, it undoubtedly constitutes a potential menace to the purity of the indigenous races."

These are rather weighty words, and while I am on the subject, I am sure you will understand why we ask for a five years' period or a seven years' period. It may be said that we are discriminating against the Indian, but we are suffering from the same thing now. Under the Indian Government we suffer discrimination against us to a large extent. I will only cite a very prominent instance. Somewhere in 1883 or 1885 there was famine in Upper India, and as a result a new policy was chalked out by the Government of India offering large tracts of lands in Burma to big Indian moneyed people. As a result

there was granted what is known as the Zeyawaddy Estate. One of the stipulations in the leases was that the lessee should not employ more than 10 per cent. of the local labour, and 90 per cent. must be from India.

Mr. Cowasjee: The idea was to recruit labour from India in those years.

U Ba Pe: Yes, as against the Burmans on the spot, who cannot get work there. This is discrimination of the worst type. Our land is taken away and our labourers are not allowed to work on it.

Major Graham Pole: Does that still stand today?

U Ba Pe: Yes, this is one of the many instances. I can cite more instances. I need not cite more. This is from official records.

Mr. Harper: That was waste land, was it not?

U Ba Pe: Yes, waste land, but valuable land all the same.

U Ni: Money was lent by the Government.

U Ba Pe: So when we talk about discrimination I am not thinking of introducing laws and rules and regulations to discriminate against Indians or anybody else, but we are thinking of putting a few points here and there not so much for the purpose of discriminating against any national, but for the purpose of keeping our own race and our own country on a better footing than we are at present. I think a country like yours can afford to allow all the British subjects to come here and qualify for the franchise within a period of three months or six months, but if we have the same rule operating in Burma the net result will be that those who come and go, and have no idea of exercising the franchise at present, will jump at it, and our position will be worse than at present. Unless we have some period fixed in connection with the qualifications for the franchise, I am afraid the whole country will be in an uproar against the new Constitution.

Mr. Haji: In the interests of historical accuracy and in order to get the facts correctly stated, I would like to make just a few remarks. Reference has been made to the question of a grant subject to the condition that 10 per cent. of local labour should be used. It would seem from these remarks as if this grant was intended to bring in the workers from the particular State in India to which the licence was given at the cost of the Burmese workers, but if you examine the facts you will find the position is quite different. The position was that the agricultural occupation in those days was so paid in Burma that Burmans were not prepared, and rightly were not prepared, to lower their standard of life and do work for which men had to be brought from India. This is a very good illustration from my point of view of the fact that Indian labour in the past industrial and agricultural development of Burma has supplemented and has not by any means supplanted indigenous labour in Burma. For this conclusion I have the authority not merely of the Report of the Royal Commission on Labour in India but also the support of Mr. Bennison. Writing his Report of an enquiry into the standard and cost of living of the working classes in Rangoon he says on page 91:

“ In order to understand why Indians have obtained such a large share in the industrial life of the province it will be necessary,

to go back a number of years. It is clear from the Census Reports for 1901 and 1911 that after the annexation there was a large amount of waste land in the province available for cultivation at very little cost, and that during the next twenty years or so there was a gradual extension of the cultivated area, the increase being particularly rapid between 1900 and 1906. Those years were marked by a movement of the indigenous population from the towns to these uncultivated areas. This increased agricultural prosperity of the country was reflected in the industries, most of which were concerned with the disposal of its agricultural produce, and as the indigenous population was confining itself largely to agricultural extension the deficiency of labour"—

as I have said, supplementing and not supplanting—

“ in the commercial and industrial occupations was filled by immigrant races, mainly Indian, who were quite prepared to undertake the mechanical and routine occupations of modern industry. There was also, in some years, a deficiency of agricultural labour at harvest time,”

again I say there was no supplanting—

“ and the cultivator in the Delta came to rely more and more on Indian labour for the reaping of his crop rather than depend on the labourers from Upper Burma who came down only when they had had a bad harvest Indian capital also played a part in financing these extensions of cultivation.”

I dare say the problem to-day is slightly different, but it is absolutely essential to understand the historical position, and no solution of to-day would be justified or should be justified by distorting historical facts. Moreover, to-day there has been repeated a slogan which in this Conference was first given utterance to by Dr. Thein Maung, I think in the course of his general remarks, and we have heard it since both here and outside. It is to the effect that the low standard of life of the Indian labourer cuts the Burman out. Here again, I have the authority of the same official, Mr. Bennison, and I have prepared a table from the exhaustive analysis which he has given, of family budgets in Rangoon. He compares Burmese family groups with Tamil and Telegu family groups, and to that I have added the expenditure incurred by single men. I give under three headings the percentage expenditure of Burmese families, Tamil and Telegu families, and single men on the necessities of life. The percentages are those of total income.

				<i>Tamil and</i>		
				<i>Burmese</i>	<i>Telegu</i>	<i>Single</i>
				<i>families.</i>	<i>families.</i>	<i>men.</i>
Food	...	...	...	52.8	56.4	53.4
Clothing	...	...	...	10.6	6.5	6.2
House rent	...	...	...	13.9	10.3	7.4
Fuel and Light	...	...	...	5.2	4.2	4.8
Household requisites	...	...	...	2.6	1.8	2.0

This accounts for about 85 per cent. of the income in the case of Burmese families, 79 per cent. in the case of Tamil families, and 70 per cent in the case of single men. On all these requisites of daily life—food, clothing, house rent, etc.—while the Burmese figure, according to Mr. Bennison is 85.1 per cent of the income, the Tamil figure is 79 per cent. a difference of only 6 per cent. when comparing

the two sets of families, while the figure for the single man as against the Burmese family shows a difference of 12 per cent. But the correct comparison, to my mind can be provided only by comparing one set of families with the other. There you find that the difference in the standard of living is represented by 6 per cent. Perhaps some of you will recall that Dr. Thein Maung at one stage suggested that the difference between the two in Rangoon was 40 per cent. I do not know where he got his figures, but here are facts from this official report as to the difference in the standard of life. Though I must say there is a difference, it is not enough to justify this continuous talk about the lower standard of the Indian labourer having pushed the Burman out.

Sir O. de Glanville: May I ask if Mr Haji is taking the family income of the Burman and the Tamil on the same figure?

Mr Haji: Absolutely.

Sir O. de Glanville: But surely the standard of living at which the Tamil and Telugu live may not be sufficient for the Burman family. I mean the figures are all wrong.

Mr Haji: If the figures are all wrong . . .

Sir O. de Glanville: Of course they are.

Mr. Haji: I am afraid Sir Oscar is going by rumour. That is the general impression, and as a matter of fact I was rather surprised myself to read Mr. Bennison saying that the Tamil woman spends more on her clothes than does the Burmese woman; but it is a fact, because it appears, according to Mr. Bennison that the one has three garments while the other has two.

Chairman: Are not we travelling rather far away from the vote?

Mr. Haji: No My Lord, I have particularly brought this point in, because I do not want this question of the Indian pressure on Burma to be discussed in an atmosphere which is vitiated by incorrect facts.

U Ba Pe: Yours are not facts.

Mr. Haji: They are facts.

U Ba Pe: Yes, but have you seen the figure published just before we left Burma?

Mr. Haji: This is 1928.

U Ba Pe: Yes, but what about the 1931 figure?

Mr. Haji: Here are family budgets. I am quite prepared to study those other figures if they are given to me. I suggest we should not hear too much about the great difference in the standard of life that is pushing the Burman out of industry or the agricultural field.

Tharrawaddy U Pu: My Lord, I want to say a few words in reply to my friend U Ba Pe with reference to the Zeyawaddy grant, which falls within my constituency.

Chairman: We are getting rather local now.

Tharrawaddy U Pu: He brings in this Zeyawaddy grant. A grant was made by the Government of Burma to the Indians. King Thebaw was taken away about the time Upper Burma was annexed by the British. I do not know in the least what conditions were laid down.

As far as I know there has not yet been a case where an unemployed Burman was refused employment by the manager of that grant. This much I know.

U Bu Pe: There was a percentage.

Tharrawaddy U Pu: I am not here to defend it, but as far as I know there has been no case where an unemployed Burman applied for work unsuccessfully to the manager of that grant. I have been there in that constituency for the last six years and I know these people personally. Therefore, in the name of justice I think I must stand up and defend this matter. I do not think I need say anything more.

Chairman: Well, gentlemen, I think we have discussed this question. I agree it is a very difficult and complicated question, and we have discussed it very widely and generally.

I only want to say one or two words on the main subjects under discussion. May I just interpolate this first. Reference has been made to the discussions about South Africa in the Imperial Conference in 1923 and to the question of admission to full rights of members of one part of the Empire in another. I want to say emphatically that I think our ideal ought to be to make these transitions as easy as possible and to give the widest possible rights we can to subjects of the Empire in any part of the Empire. May I say that I took a very active part in that 1923 Conference in order to try to persuade South Africa and other places to give full rights of admission to the Indians there. I worked very hard for about six weeks on that subject. I did not altogether succeed, but may I say that I feel very strongly that that is the ideal, anyhow, at which we should aim.

Well, of course, the discussion also has been a little bit diverted, for this reason—that we have got off, as has already been suggested, rather to the wider question of “citizenship” than that of the qualifications for the vote. I understand, of course, how that has arisen, because in the Constitution of the Irish Free State, of which we have heard a good deal—and this must have flattered the Irish a good deal during these discussions—there the question of the vote is linked up with that of citizenship and the definition of “citizenship.” That, to some extent, has brought us on to a wrong road, and a road which fortunately has not been followed by most of the constituent elements of the British Empire, and it has this further difficulty, that it has rather masked, in our minds, exactly what the qualifications should be for the exercise of the franchise. Again, the word “citizenship” imports a number of other considerations which travel far more widely than any question of voting or exercise of the franchise, and imports, as I say, other considerations which go far beyond the matters we are discussing here, and really raise questions of the greatest complexity with which, in trying to frame a constitution for Burma, or anyhow to arrive at the greatest degree of agreement on the subject, it is hardly necessary to deal.

Just one word, too, about the anxieties which have been expressed, of the inhabitants of Burma that they might be overwhelmed to some extent by the great civilizations on their left and on their right. Much has been said on that subject, but surely that is a little bit outside, is it not, the mere question of who should vote? As to the admission of other people into Burma,

there are ways and means, by immigration laws and otherwise, of checking that amount of immigration if it is found that there really is any danger of swamping the inhabitants themselves or of introducing a larger foreign or alien or non-Burman element, shall I call it, than is considered essential by the Government of the country.

The question of who should exercise the vote, it seems to me, is really a very much narrower point. I think a good deal of criticism has been passed upon the establishment of domicile as one of the tests of voting, and that proposition, I think, has been a good deal riddled by criticism. Then we have got down to the question, the more practical question, as to whether residence, and, if so, how long residence should be considered as a proper test for the exercise of the vote. I will only say this in reference to what U Ba Pe has said—and possibly some others also—that you do not really solve all these questions of which he has spoken, or of which others have spoken, by merely imposing a stiffer test for the franchise unless, of course, immigration is restricted; otherwise you might have quite a substantial population who were living in the country being rated and taxed, and yet who did not exercise the vote. Now, nobody cares less about the usual democratic phrases and clichés than I do, and about people who pay taxes, taxation without representation, and so forth; but I think it is a matter of common-sense that if you have in the country a substantial number of people who are paying taxes, and possibly large taxes contributing money which is being spent in the country who have no vote and who have no control at all as to the way that money is spent you are certain to have a substantial amount of discontent; and that again is one of the things we want to avoid if possible. I think, especially in starting a new Constitution in Burma.

Therefore, looking at it in that narrow way as to what is the wisest thing to do as regards people who come into the country and work in the country, engaging in professions and occupations and in the business of the country, I think it is also worth considering the other point of view. When you have overwhelming power in the hands of the population of the country I think it worth considering whether it is not a wise thing, as I said in the case of minorities, to consider whether it is not worth while treating rather generously, these sections of the population who are non-indigenous.

Then we get down to the period of time and on that point, of course, there has been considerable difference of opinion. We have had various periods suggested varying from six months to twelve years.

U Chit Hlaing: Thirty years.

Chairman: I think, perhaps, thirty years may be taken as rhetorical rather than an actual expression of opinion. There, I am bound to say, we have not reached complete agreement. I think we have got a great deal of agreement on the point of residence plus a certain period of residence as being the qualification for a vote, but on the period I cannot say that we have any agreement at all. I am not so optimistic as Sir Oscar de Glanville, who thinks that if we sat another week we should be able to come to an agreement upon that point, and so I think I can only record the views on that subject, premising that I think myself—if I may be allowed to express an opinion—that it is wiser to have the shorter qualification rather than the longer one. I say that

because I think that people who pay taxes in the country really do have an interest in the country and compared with the total number of those who will exercise the vote in the country, I doubt very much whether they would have such a preponderating voice or such an undue weight that there need be any jealousy or fear of them among, what perhaps I might call the regular inhabitants of the country.

HEAD 2.—METHOD OF ELECTION TO A SECOND CHAMBER—(*continued*).

Lord Mersey: I do not propose to detain the Conference more than a very few minutes with regard to this matter because, in comparison with what we have been talking about this morning and this afternoon it is a much narrower subject; the method of election to the Upper House is the point for consideration.

I have placed this matter under six simple heads. The first is the composition of the Senate. U Ba Pe has suggested that the composition should be: half elected, a quarter elected by the Lower House, and a quarter nominated. There is another alternative suggestion which probably the Conference would consider worthy of some attention, namely, that half should be elected by direct election and half should be nominated. Those are two suggestions; each of them has advantages and, no doubt, disadvantages also. The further alternative suggestion is that half should be elected, either directly, or by the Lower House, or by the Lower House and Senate together.

The second point is as to the electoral qualifications—the qualifications of the voter—and the only suggestion which, I understand, has been put up about that is that the qualifications should be the same as the qualifications which at present exist for the Indian Legislative Assembly.

The third point is the qualifications of candidates. I think there was general agreement that a higher standard should be required for candidates for the Senate than for candidates for the Lower House. An age standard of about 35 I think, was suggested, and a certain property qualification, but the Conference would probably agree that to impose any narrow test in the nature of citizenship or anything of that sort might preclude very useful members from being brought into the Senate at all. For instance, if nobody could be elected to the Senate, or even nominated, unless they had had twelve years' residence, or unless their father had been of pure Burman blood, it might militate rather severely against the value of the Chamber.

The fourth point relates to the constituencies; their size, the number of voters, and the arrangements for election. It is very difficult, of course, as I understand, to devise constituencies of approximately equal area and of approximately equal numbers of voters. Something, no doubt, could be done, but it is difficult to arrange for a sufficient number of polling-booths and of officers to superintend elections over these wide areas, and it is, of course, very difficult in large constituencies of this nature for the candidate or the representative to maintain any close personal touch with the constituents. That is quite evident.

The fifth point is as to nomination generally, and as to whether the nominated element should be larger or smaller. Of course it is very clear—perhaps one speaks from a prejudiced point of view—to anybody who has had any experience of parliamentary government,

that the great advantage of a nominated element is that you succeed in procuring age, experience, and the maintenance of a certain tradition in the conduct of business and in policy. It may well be that gentlemen—or ladies—who would not care to undergo the rough and tumble of an election at an advanced age would be more ready to be nominated, and it would be a great pity to have some system of rules which would keep them outside the Legislative Chamber.

Chairman: I am much obliged to you for that statement, but I did this morning rather suggest that the point to which we should limit ourselves was the method of electing persons who were to be elected—if they were to be elected—to the Second Chamber.

Lord Mersey: Very well.

Chairman: We are now getting on to that question of nomination which we did discuss at some length.

Lord Mersey: Then the only remaining point is as to the other form of election, that is to say, the indirect election. If there is to be a portion of the Upper Chamber elected not directly, then how is it to be elected; either by the Lower Chamber alone or by the Lower Chamber and the Upper Chamber sitting together, that is, of course, after the Upper Chamber has first been constituted?

That I think covers the whole field of the points at issue as regards election. I have purposely not gone into the various individual constituencies, because I do not think that really affects the principle to any great extent.

Miss May Oung: I think in the present rules of the Legislative Assembly there is a serious discrimination. When we discussed the rules that we were given I got up and asked that this sex disqualification should be removed.

Chairman: Yes, and we agreed that the sex disqualification was to go.

Miss May Oung: Yes; but if you put it down generally that the rules of the present Legislative Assembly should be accepted, I want it to be noted that we agreed to remove that sex disqualification.

Chairman: Yes, we have. I think Lord Mersey was putting the alternative before us: whether those rules generally should be accepted or not as the basis for the franchise of those people who were electing to the Senate that proportion of the Senate which was to be elected directly. We will safeguard your position.

Miss May Oung: What I mean is, in accepting that, I want it to be noted that was left out.

Chairman: Yes.

U Ni: May I know what is the second point mentioned by Lord Mersey?

Lord Mersey: The second point was electoral qualification—that is the qualification of voters.

Chairman: For the directly elected portion of the Senate.

U Su: My Lord, I have no intention of expressing my ideas if I see that there is any sense of compromise in this Conference. As I hear from Mr. Wardlaw-Milne and from most of the capitalists who

are exploiting in our country, I find, as a man who comes to show the views of our country, Mr. Wardlaw-Milne said in an atmosphere, as he is a conqueror, that " we have the right to do whatever we like, and there is no doubt that you can be treated in any way we like."

Mr. Wardlaw-Milne: I hope you will not put into my mouth words which I have never used in connection with Burma, or, I am glad to say, to my knowledge, in connection with any other country. I would like to correct that at once. I have never made use of the word " conqueror " or " conquered nation " or anything of the kind.

Sir O. de Glanville: My Lord, I have very little to say on this point. It has been discussed before. I have already expressed my view.

Chairman: I do not want to stop you, Sir Oscar. The only reason why I brought up the point at all was that that paper which was circulated brought out some fresh facts on which I thought the Delegates would like to express an opinion.

Sir O. de Glanville: I do not want to go over old ground. My view was: half elected and half nominated. The question now is, what should be the method of election. I did express some tentative views before in favour of election by the Lower House, as that did allow minorities some chance of getting into the Upper House. The suggestion here that it should be done on the basis of certain constituencies I am afraid would not be acceptable to others than the Indian constituencies. Take, for instance, Rangoon Town. It is proposed to give five members to Rangoon Town. The number of European voters there are 1,195. I do not know the exact composition of the other communities, but as far as I know the voters of Rangoon I am afraid that with five seats in Rangoon Town no European could possibly be elected if we adopted the principle of straight elections, and that no Burman could be elected. It is making a present of five seats to the communities other than the Burmese and the European. That is Rangoon Town, as the majority are not Burmans in Rangoon Town; the majority are certainly not Europeans. That is what I feel about that. If we adopted the principle in Rangoon Town of the single transferable vote, then, of course, the Burmans would certainly come in, and Europeans possibly, but that is doubtful. In the other divisions they would be all Burman; nobody else would have a chance. That is the difficulty I feel about accepting this.

Mr. Cowasjee: I am not quite sure whether we are to have separate electorates in the new constitution. I do not think that question has yet been decided. Are we going to have separate communal electorates for the Upper House?

Chairman: Well, we have had a discussion, I think, on that point. There is no general agreement on it.

Sir O. de Glanville: I do not think anybody has claimed that so far; certainly we have not.

Mr. Cowasjee: I think it has been mentioned.

Chairman: Anyhow, there is no agreement to have separate electorates for the Senate.

Mr. Cowasjee: Then, My Lord, I suggest that we should also have separate electorates, just like we have for the Lower House, for the election of members of the Upper House. If we are not to have

separate electorates at all, then the number of members from Rangoon, as Sir Oscar de Glanville has suggested, I think should be increased. The number we have, five, is not sufficient, and we must bear in mind that, after all, Rangoon represents the largest interests of the Province. That is the central place of all industries, trade and commerce; everything is centred in that place; it is the capital of Burma. I suggest that the representatives from Rangoon Town should be increased—

Sir O. de Glanville: I do not think Mr. Cowasjee has quite understood my point. May I put it perfectly clearly. The result of this electorate would be five Indians and no others, and to increase the number, I think, would make it a little worse.

Mr. Cowasjee: I do not agree with my learned friend there. I think the Europeans would have just as good a chance as Indians in Rangoon.

Sir O. de Glanville: We have only 1,193 out of 8,000.

Chairman: Do you think we can discuss these exact details as to the number? I was rather putting before the Delegates this point. They have had this paper showing that, taking as the basis for the voters for the directly elected members of the Upper Chamber, the existing Council of State basis or the existing Legislative Assembly basis, and assuming that the number of seats was to be 30 to be elected in this way, they will see, on the existing distribution, the considerable variety there is in the numbers of voters for those seats taking them by division. Well, I think the general question is whether some of the Delegates still consider it better to proceed by that way of direct election in spite of the divergencies in the size of the constituencies or whether, in the light of these figures they now modify their view and consider that the better method of choosing would be by the Lower House. Of course, personally, I do not like the Lower House method of election at all but that has nothing to do with it. What I want to know is what are the views of the Delegates.

Mr. Cowasjee: I have expressed my view that the election of the Upper House should not be by the Lower House and I adhere to the view that the members of the Upper House should not be elected by the Lower House. The only remaining question is whether we are to have communal electorates for the Upper House. We ask that a certain number of seats should be reserved for election for the Upper House on the basis of communal electorates. If that is not thought to be feasible and if that is not going to be done then I ask that the number of seats for Rangoon Town should be increased from five to eight. That is my suggestion.

Chairman: Do you mean increased from five to eight at the expense of the others or by increasing the total number of seats? We are taking the number at 30.

Mr. Cowasjee: Supposing the number is 30, we say eight seats out of 30.

Chairman: So you would knock out the representation of some other places or reduce them.

Mr. Cowasjee: Yes, I would do that. I would do that on the ground that Rangoon is the centre of every trade and business and of all commerce and is really the heart of the whole Province.

Lord Mersey: May I say, in reference to that, that there is one point which perhaps Mr. Cowasjee has not considered. This number of 30 is only a suggestion. Suppose you have a Legislative Assembly of 125 and therefore a Senate of 40 it might well be that the number to be elected in one way or other would be only 20. That would make it much more difficult to increase the representation of one constituency at the expense of another.

Mr. Wardlaw-Milne: May I say a few words merely to repeat what I have said previously. In my view, in the early stages at any rate, it would be wise that that portion of the Upper House which is not nominated should be elected by the Lower House. I do not think you should complicate the situation, at any rate in the early years, by having a second electorate outside. I am well aware, My Lord, that these are not the views which you hold and I do not suppose that they are held by other members of your noble House, but at the same time I feel that in Burma it would be unwise to attempt too much at once in the way of appeals to the electorate. I appreciate the necessity of Rangoon being fully represented but that difficulty might be got over in connection with the nominations. Whether that is so or not, however, I do not think we ought to go into too great detail now and I would merely repeat that, personally, I am still of opinion that the Upper House should be elected by the Lower House.

U Ni: I have already expressed my views on most of these points.

Chairman: Yes, I do not think it is necessary to repeat them. Some of these points have already been discussed. I want if possible to keep the discussion to that one point that I raised, namely, the proportion of the members of the Senate. It was suggested that they should be directly elected by constituencies. The only alternative mentioned was, I think, that they should be elected by the Lower House itself. A paper was circulated which indicated, taking the present qualification for voters for the Council of State or the Legislative Assembly, the distribution of the seats according to the number of voters. That was circulated to the Delegates, and I simply wanted them to express an opinion, if they wished to do so, as to whether they had or had not modified their views on the question of direct election for a certain portion of the Senate.

U Ba Pe: I have expressed my strong views in favour of direct election. After carefully considering the figures given here, I have come to the conclusion that there is nothing to justify a change of view. We are still out for direct election of a portion of the members of the Senate. The franchise which I have suggested is the same as for the Indian Legislative Assembly. Possibly we might add the past and present Presidents of District Councils, and Municipalities. The Indian legislative system is known in Burma now. Elections take place every three years in Burma, the people are used to it, and there will not be any difficulty in introducing it into a narrower field, because the election will be by constituencies.

Major Graham Pole: You do not anticipate any difficulty even for the first election?

U Ba Pe: No.

Chairman: You are not troubled by inequality of numbers as it has worked out?

U Ba Pe: No, not at present. Besides the age, the other qualifications for candidates would be the same.

Mr. Ohn Ghine: Lord Mersey stated that the qualification required for a candidate for the Senate would be higher than for a candidate for the Legislative Assembly. I do not think that was agreed to by all of us. The suggestion made was that the qualification should be the same as for a candidate for the Legislative Assembly.

Lord Mersey: I only mentioned it as a matter for consideration.

Mr. Haji: My Lord, by taking as the electoral qualification for the Upper House in Burma the same qualifications that today pertain to the Legislative Assembly, we are, doubtless, taking the path of least resistance; but I should like to remind you that for the whole of the Upper House in India, including Burma to-day, the constituency does not exceed about 42,000 of which Burma has 15,000. Now what shall we be having in Burma? We shall be having an Upper House in one Province after separation where the electorate will be in numbers much more than the electorate for the Council of State in India to-day. If it is the intention that this body, this Upper House, should serve as a revising Chamber, as a Chamber in which passing phases of public opinion are not to be reflected, if it is going to be a very sober and very serious body, I feel myself, My Lord, that before we yield to this suggested desirability of accepting the easiest route, we should, if time permits either now or later on, if you will permit a discussion afterwards, explore other methods and think out ways in which a more efficient and effective constituency may be evolved. Because I do feel that where the whole of India gives under the state of affairs to-day, 40,000 or 42,000, for Burma alone to get 50,000 voters for the Upper House is a bit too much.

Major Graham Pole: But why, if Burma is separated?

Mr. Haji: If the purpose is to have a replica of the Lower House, why not? We are merely looking at it from the point of view of our aims, and if our aim is what we claim it is, then I do feel that for a revising Chamber to have this number of electors in the constituency is too high a figure.

Chairman: But you remember that the candidates will be elderly gentlemen of 35 and upwards.

Mr. Haji: Yes.

Lord Lothian: And ladies.

Mr. Haji: Moreover, with regard to the methods, I would support what has already been suggested, namely, that half the Upper House should be nominated and half should be directly elected. And, while we are on that subject of election, I should hope that whatever solution of the communal problem is arrived at in the Lower House would be applied *mutatis mutandis* to the Upper House as well.

Chairman: Yes; but you think, do you, that as far as the election of these members to the Upper House is concerned, the basis of the present number of voters for the Legislative Assembly of India would be too high, and you prefer, do you, the number of people who at present vote for the Council of State in India as a basis; is that what you mean?

Mr. Haji: I mean if you do not want to work out something new, I would rather have the existing basis, because, mind you, My Lord, it gives you 15,000 voters. Now 15,000 is for Burma a very good figure when for nine to ten Provinces in India you have only 42,000. My suggestion, therefore, would be that, if you think we had better get hold of the machinery that is now going, it is better to get hold of the machinery for the Council of State; and, as Mr. Howison just reminds me, according to the new figures we have got, if you keep for the Upper House in Burma the qualifications under which people become voters for the Council of State in Burma to-day, you get 20,000; and I think that is enough.

Major Graham Pole: 20,000 to vote out of 15,000,000?

Mr. Haji: No: I am talking of Burma alone.

Major Graham Pole: Yes: there are 15,000,000 people in Burma; that is the population.

Mr. Haji: We are talking of the Upper House: the same people as are voting for the Upper House to-day.

Major Graham Pole: Yes, I know.

Mr. Haji: I do not see how the separation of Burma from India affects the position with regard to the revising Chamber.

Major Graham Pole: I think it does very seriously.

Mr. Haji: Well, that is a point of view.

U Ni: May I ask a question—whether it is not possible and advisable to insert a sort of general clause in the Act to frame certain rules in order to punish illegal or corrupt practices in connection with the elections?

Major Graham Pole: But you have got a Corrupt Practices Act now.

U Ni: Yes, we have got that now.

Chairman: Are there any other expressions of opinion?

Mr. Howison: I should just like to say shortly that I support what Sir Oscar de Glanville has said. From the European point of view, what we actually want is representation in the Upper House, and it is really immaterial whether it is by direct election or by indirect election but direct election seems to offer no hope whatever for us to secure a seat in the Upper House. For that reason we prefer the method of indirect election from the Lower House. If we do not get our representation by this method, we must have nomination, otherwise we are driven back to the method of having special interest seats and communal seats in the Upper House, which I think the whole of this Conference wants to avoid if possible.

Tharrawaddy U Pu: I do not know whether I shall be in order. I understand that this is the last session for discussing these matters.

Chairman: That is so.

Tharrawaddy U Pu: Of course, the next thing will be to discuss your Report. What I want to say does not arise out of the present discussion.

Chairman: Well, if it does not, we had better finish this discussion first.

Tharrawaddy U Pu: With regard to the present discussion I think we have filed a statement signed by twelve of us. I think therein we have already given our views, and we stick to them now.

Chairman: Very well. If it is something else than this, we will not take it now.

Tharrawaddy U Pu: No; this is a matter concerning the next Constitution, a matter that struck me just now, because I remembered these two points. They are one or two points to bear in mind, that is all.

Chairman: Yes, but they are not relevant to the point that is now before us, I understand?

Tharrawaddy U Pu: No, they are not.

Chairman: Does anybody else want to say anything on this question, because I must admit that I have not got very much further. Many different opinions have been expressed. Some say that they want to take the Legislative Assembly basis as the basis of election; others say they would rather have the whole number elected by the indirect method by the Lower House. I cannot get very much further than that. Others have said—I think Mr. Cowasjee said—that it would be preferable to have communal electorates for the Senate.

Mr. Cowasjee: Or a larger number of seats at Rangoon.

Chairman: Yes, or alternatively, a larger number of seats at Rangoon. That is all we can say as the result of this discussion.

Now, what is this point that you want to bring before us, *Tharrawaddy U Pu*?

Tharrawaddy U Pu: About conferring titles. I forgot about this. Major Graham Pole mentioned this thing. Another thing is about the members' titles, for instance. Formerly the custom or practice in Burma was for the Governor to confer titles. I am not speaking for myself; I am only speaking for all the future members of the Assembly. I think with regard to titles the Governor should not confer titles without consulting the Cabinet. When I say that he should consult his Cabinet, I do not mean that the Cabinet's decision should be final. He must have his discretion. That is my humble opinion. Before he confers a title on any person I think the Governor ought to be instructed to consult his own Cabinet, whose views he may, or may not, accept. I do not think that the Governor should go on conferring titles as he likes without consulting his Cabinet. In order to get a smooth working of the new Government, that is my humble submission.

HEAD 5.—RELATIONS BETWEEN THE TWO HOUSES—(continued).

(*The Names of the two Houses*).

Chairman: There is just one more point to be dealt with. Are there any views about the names of these two Houses? Is the Upper House to be called the Senate?

U Ni: I would propose that the Upper House be called the Senate, the Lower House, the House of Representatives, and the two together, Parliament.

Chairman: What are the names in Burmese?

Tharrawaddy U Pu: The two Houses combined together would be *Parliman*, the Senate, *Ahtet-Hluttaw*, and the House of Representatives, *Auk-Hluttaw*.

Chairman: "Parliament" everywhere means "the talking place."

Tharrawaddy U Pu: That is the meaning attached to this term.

U Chit Hlaing: I think the Lower House should be called the House of Representatives, and the Upper House should be called the Senate. These names, I think, will suit very well. They are names associated with America and Australia. People will like the Houses to be called by those names. They are representatives of the people in the Lower House.

Chairman: I was dealing for the moment with the Senate. If there is no other suggestion we will take that as agreed. Then as to the other House, could it be called the Legislative Assembly?

U Chit Hlaing: House of Representatives.

Mr. Cowasjee: House of Representatives is too long.

Chairman: Is the Assembly too short? It is rather an advantage to have a short title and I like Senate because it is short.

Lord Mersey: What about Congress? That is American and you seem to like Americans.

Tharrawaddy U Pu: It would be mistaken for the Indian Congress.

Major Graham Pole: House of Representatives would get away from any feeling about the Legislative Assembly in India, if there is any feeling about it.

Tharrawaddy U Pu: If you could have the Burmese titles so much the better.

Chairman: I would like to if I could pronounce them.

U Ni: These are the English equivalents for the Burmese.

Chairman: One suggestion is the Legislative Assembly and the other is the House of Representatives. Are there any other suggestions?

Tharrawaddy U Pu: Legislative Assembly is no good. There is a Legislative Assembly in India and the people of Burma would not like the same name.

Chairman: There may be a different name in India. I do not think we need worry about the name in India because it may be changed. Are there any other suggestions?

Mr. Campagnac: There is one important question. Is Burma going to be under the Secretary of State for India, or what will be the method?

Chairman: I cannot yet tell you that.

Lord Lothian: That matter will have to be considered a little later on.

Tharrawaddy U Pu: What about membership of the League of Nations?

Lord Lothian: I do not think you can settle that.

Chairman: It is only Geneva that settles that.

Major Graham Pole: It cannot be settled even by the Imperial Parliament here.

Tharrawaddy U Pu: We know that, but without British support Burma cannot become a member of the League of Nations. We ask you to support us.

Chairman: There are certain regulations and rules—I do not often go to Geneva, I avoid it when I can—whereby these things are discussed and settled.

Tharrawaddy U Pu: That is quite true, but we expect that His Majesty's Government will help us.

Chairman: I cannot give any undertaking.

Tharrawaddy U Pu: You can inform His Majesty's Government of the general wish of the Conference to see Burma a member of the League of Nations.

U Ni: Frequent references have been made to a draft constitution formulated by what is known as the Hundred Committee. I have a copy of that draft constitution here, and I want to place it at the disposal of members of the Conference who might wish to make use of it.

U Chit Hlaing: I object to the document being tendered at this stage. The Hundred Committee has no real standing; in fact, there was no "hundred" at all. That document should not go in at this stage unless we are to have an opportunity of criticising it.

U Ni: I only thought that some members might like to refer to it and have handed it in informally.

(The Committee adjourned at 5-40 p.m.)

**Proceedings of the Thirteenth Meeting of the Committee of the
Whole Conference held on Monday, the 4th January, 1932,
at 11-30 a.m.**

DISCUSSION ON THE DRAFT REPORT.

Chairman: May I say just a word about this Draft Report which is presented to the Delegates. Of course, Gentlemen, as I think all of you understand, our duty was to see whether we could get a large measure of agreement on different points connected with the framing of a constitution for Burma on certain lines laid down. It was not a very easy thing to do, and a very considerable variety of opinion was expressed by the Delegates on many points. All one can do in such circumstances—because one's Report must be kept reasonably short, otherwise people will not read it—is to condense as much as possible and present a small picture, as it were, giving as far as possible the most accurate account of the views expressed.

I have followed very largely in that respect the precedent of the Indian Conference which I thought we might perhaps imitate. I have, however, departed from the Indian precedent to some extent and that is by putting at the end of the Report a short summary of the conclusions on points on which there was general agreement. I think that if you have the conclusions on points on which there was general agreement put only into the body of the Report you do not get the full

effect of the considerable measure of agreement which has been achieved in this Conference. By putting these conclusions together at the end of the Report you can see at once, that although, as I say there was a very great variety of opinion expressed, yet on many subjects there was a considerable measure of agreement. This summarising of the conclusions of the Committee will be of assistance also I think to the Prime Minister in framing his speech and to His Majesty's Government in considering the arrangements to be made hereafter for a Constitution for Burma.

DRAFT REPORT.

Introductory.

1. The Conference was resolved, on 7th December, into a Committee of the Whole Conference and proceeded to consider the Heads of Discussion which were laid before it by the Chairman. These were discussed *seriatim* by the Committee sitting practically daily till December 22nd inclusive; and the following Report records the opinions expressed and the conclusions reached on each.

THE FEDERATED SHAN STATES.

2. Before proceeding to consider the structure of the Legislature for a Burma separated from India, the Committee turned their attention to the question of the position to be occupied by the Federated Shan States in relation to the government of a separated Burma. It was evident that the decision of this question would materially affect, not only the composition of one or both Houses of the new Legislature, but perhaps also the whole nature of the government to be established.

3. *Plea for maintenance as Separate Entity.*—The Shan States Delegation both in discussion in Committee and also in a letter circulated, subsequently plainly indicated that while they had every sympathy with the aspirations of their Burman friends and neighbours, their first objective was to preserve the separate entity of the Shan States Federation. With this aspiration the Committee generally expressed sympathy. As to their position in the polity of a separated Burma, the Shan Delegates indicated that the wish of the Chiefs whose unanimous views they represented was, so far as possible and subject to certain modifications which they desired in the internal administration of the Shan Federation, to maintain the present position of the Federation—which is that of a separate sub-administration in the direct charge of the Governor.

4. *Matters of common concern.*—It was recognised on all sides that between entities so closely knit as Burma and the Shan States Federation (which is not merely a neighbour, but actually within the territorial limits of Burma) there must be many matters of common interest which it will be necessary to regulate. In the event of Burma being separated from India, Burma will have additional responsibilities to undertake and new liabilities to meet; she will, however, gain new assets. The Federated Shan States, as part of the Burman polity, wish to bear their due share of such liabilities, provided that in return they receive their due share of the additional assets, *e.g.*, customs receipts, which may be expected to accrue as the result of the separation.

of Burma from India. How this share of liabilities and assets should be determined will be a matter for careful enquiry; and this question should, in the view of the Shan Chiefs, be dealt with by the Governor.

5. On this basis it was accepted by the Committee that there can be no advantage in the Shan States taking a direct part in the government of Burma proper nor in having any representation in the Legislature of Burma.

THE LEGISLATURE.

(i) *The Second Chamber.*

6. *Desirability of Second Chamber.*—There was unanimous agreement upon the desirability of a Second Chamber, though some delegates considered that the usefulness of the Chamber depended on the grant to Burma of full responsible self-government.

7. *Name of the Chamber.*—The majority view was that the Second Chamber should be called the Senate.

8. *Powers of the Chamber.*—Several Delegates considered that the Chamber should have powers limited similarly to those of the Senate in the Irish Free State, as expressed in Article 35 of the Irish Constitution. Another opinion was that the Senate should have equal powers with the Lower House in every respect except the grant and withholding of supply. It was suggested that in the case of a refusal by the Lower House to sanction a grant deemed by the Governor necessary for the carrying on of government, the Governor might be empowered to obtain the necessary sanction from the Senate. This suggestion was not supported.

9. *Size of the Chamber.*—Numerical suggestions ranged from 30 to 60, but stress was laid generally more upon the proportion to be borne to the size of the Lower House than to the actual numbers. The proportions suggested varied from one-fifth to a little less than a half of the size of the Lower House, a number of Delegates being in favour of one-third.

10. *Composition of the Chamber.*—General opinion was in favour of a Chamber composed partly of nominated and partly of elected members, though there was divergence of view whether election should be direct or indirect, that is by the Lower House.

One group of the Burman Delegates proposed that 50 per cent. of the members should be directly elected on a territorial basis, 25 per cent. elected by the Lower House from a panel of men of experience, and 25 per cent. nominated by the Governor acting with Ministers for the purpose of explaining and supporting Government policy. Another group proposed that 50 per cent. should be elected by the Lower House and 50 per cent. nominated by the Governor. One Delegate suggested that part should be elected by electoral colleges, part by the Lower House, and part nominated by the Governor acting with Ministers, for the protection of minority interests.

11. *Method of election to Second Chamber.*—Considerable discussion took place, first, as to the method of election of the elected element, and secondly, as to the method by which the interests of minorities and special interests should be protected.

12. *Direct and Indirect Election.*—As regards the method of election there was a clear cut division of opinion between those who

favoured the system of indirect election by the Lower House, and those who supported direct election.

Figures were supplied to the Committee indicating the distribution of voters, in the various constituencies on the basis of 30 directly elected members on the qualification of the vote for the Indian Legislative Assembly. Opinion was divided, in the light of these figures, as to whether the method of direct election would be fair and practicable.

13. *Representation of minorities and Special Interests.*—The necessity for the protection of minorities and special interests in the Chamber was strongly pressed by the interests concerned, but no general agreement was reached as to the most suitable method. One opinion was that on the assumption that minorities would continue to have direct representation in the Lower House by means of separate electorates and that the elected element in the Senate would be elected by the Lower House, the minorities would probably obtain some representation in the Senate. Other speakers, taking the line that there must be some better guarantee of adequate representation of minority interests, advocated nomination of minority representatives by the Governor. One Delegate agreed that such nominations might be made on the advice of Ministers. The suggestion was also advanced that minority seats might be filled by direct election by the communities and interests concerned.

14. *Nomination of Officials in Second Chamber.*—It was also proposed that the nominated members should include some officials, whose experience would be very valuable to the Chamber in the early years of the new constitution. Some Delegates, however, objected to the appointment of officials as the Governor's nominees, but would agree to nomination by the Governor, acting with Ministers, to 25 per cent. of the total seats, of persons to represent the Government's policy and support it.

15. *Tenure of Members.*—There was general agreement that the tenure of a seat in the Senate should be for six or seven years, and that about one-third of the members should retire in rotation every two or three years, though some Delegates preferred to apply the system of retirement in rotation only to such members as might be nominated or indirectly elected.

16. *Qualifications of Electors.*—It was generally agreed that the qualifications of electors should be higher than in the case of the Lower House. Some Delegates suggested the adoption of the qualifications which at present exist for the Indian Legislative Assembly. Others, while advocating a higher qualification, made no specific suggestions.

17. *Qualifications of Candidates.*—It was unanimously agreed that the qualifications for candidates must be more restrictive than for the Lower House, but no final conclusion was reached as to their precise nature. Some Delegates favoured the present qualifications of candidates for the Indian Legislative Assembly; others favoured the qualifications applicable to the Council of State and yet others high property qualifications, or the holding of responsible posts or some specified educational tests. On the other hand it was pointed out that if the qualifications were fixed too high some communities, e.g., the Karens, might be altogether precluded from putting forward candidates.

18. *Life of the Chamber.*—It was generally agreed that continuity is desirable in the life of the Senate and that it should be dissolved by the Governor only in special circumstances, such as the occurrence of a complete deadlock between the two Houses.

19. *Casual Vacancies.*—The question of the method of filling casual vacancies was not generally discussed, but a suggestion was made that they should be filled by whatever method had been employed in the case of the previous holder of the seat.

(ii) *The Lower House.*

20. *Name of Lower House.*—The majority view was that the Lower House should be called the House of Representatives.

21. *Size of Lower House.*—The lowest figure suggested for the membership of the new House was 103. This is the size of the present Legislative Council, and the figure was put forward on the assumption that the seats now held by the "official bloc" would be thrown open to election. On the other hand a group of Delegates proposed a House of from 180 to 200 members, justifying this figure on the ground of the necessity of splitting up the present over-large rural constituencies. An increase in constituencies would in their view be even more necessary if adult suffrage at 21 were introduced, which would result in a total of 4,000,000 voters. A ratio of one seat to every 20,000 voters was suggested.

There was much support for a proposal that, having regard both to expense and efficiency, the House of Representatives should consist of from 100 to 150 members. Those supporting this proposal questioned the advantage of giving Burma a larger proportion of members to the population than is the case with European or other Eastern countries.

22. *Life of Lower House.*—It was unanimously agreed that the maximum life of the Lower House should be five years.

23. *Officials in the House.*—There was unanimous agreement that the "official bloc," in the sense of officials nominated by the Governor having power to vote as well as speak, should be abolished.

The discussion was then directed to the question whether it would be necessary for the House to have the assistance of officials. The majority of the Committee agreed that it would not be desirable for officials to deal on the floor of the House with matters under the control of Ministers; for Ministers would have access to official advice in the ordinary way.

But it was generally agreed that officials should attend to express the views of the Governor on matters relating to reserved subjects. Such officials would have the right to address the House but would not vote.

24. *Nomination and Representation of Minorities.*—Some Delegates declared their opposition on principle to any representation in the Lower House except by means of direct election. Others considered nomination necessary to secure representation of certain elements not likely to secure adequate representation by other means. The question of nomination was therefore discussed in conjunction with the larger question of the continuance of representation of minority communities and special interests by means of separate electorates.

25. In this connection, it was explained on behalf of the European community that the share of commerce in European hands is as great in Burma as Bengal, where the Europeans hold 11 per cent. of the seats in the Legislative Council, and that this community might therefore be given 10 per cent. of the seats in the Burma House of Representatives.

On behalf of the Indian community it was pointed out that Indian economic interests in Burma were as large as European, and that the Indian population numbered one million as against 11,000 Europeans. One proposal was that the 23 seats now held by the "official bloc" and nominated members should be divided among the minority interests in the proportion of their present representation, *viz.*, Indians 9, Karens 5, Anglo-Indians 1, Europeans 4, Chinese 1, and that the Indians should be given altogether 18 per cent. of the total seats in the House. An alternative suggestion was that the total seats should be distributed as to 50 per cent. on a population basis and as to 50 per cent. on the basis of economic interests. It was stated that the minority interests constituted 25 per cent. of the population of Burma and held 50 per cent. of the country's wealth, distributed as to 20 to 25 per cent. in European hands and 30 to 35 per cent. in Indian and Chinese hands.

As regards the Karen community it was claimed that it would be reasonable to give the community separate electorates in every district in Lower Burma. In a wholly elected House of 180 to 200 members this would give them a largely increased proportion of representation.

A suggestion was made that the Chinese should be given 2 per cent. representation and that the Landowners' Association (owners of not less than 300 acres of agricultural land) should be given 2 per cent. representation in the Lower House and one representative in the Second Chamber. One Delegate argued that the Landlords' Associations (owners of town property) should be included and the percentage increased. An alternative suggestion was that Landowners, together with Labour and other interests and also districts inside the elective area, but not yet made into constituencies, might be represented by giving the Governor power to nominate up to 5 per cent. of the total seats to provide for the representation of such interests. This suggestion received support, but the majority of the Committee did not favour separate seats for Landowners or Landlords.

On behalf of Burma-Muslims, in the most comprehensive sense of that term, a plea was put forward for either half the number of seats given to the Karens or for a minimum of 4 to 6 seats out of 200.

26. *Criticism of Minority Claims.*—These various claims put forward by the minorities were contested on a number of grounds. In the first place objection was expressed to nomination in any form. Secondly, the idea of separate electorates was opposed on the ground that if the criterion of the existence of a minority adopted by the League of Nations were applied, namely, that a minority must contribute at least 20 per cent. of the total population, then there are no minorities in Burma. But if it were held that minorities in fact exist then they could claim no more than freedom from discrimination or interference in the spheres of industry, property, the professions, legislation and taxation, all of which could be adequately secured to them by a declaration of rights in the Constitution.

In more detail, it was argued that European Government Servants would be protected by statute, the European commercial community could be protected by the proposed declaration of rights, and Europeans who identified themselves with the country could always get into the Assembly through general non-communal constituencies. Anglo-Indians were mostly members of the Services and would have the protection of statutory safeguards, while the Anglo-Burmans included in the community should identify their interests with those of the majority community. Chinese commercial interests would be covered by the general declaration, while of the remaining Chinese, the British Chinese, who alone could be considered, should identify themselves with Burma and depend on Burmese votes for representation. Similarly the interests of those Indians who were permanently settled in Burma were identified with those of the Burmese, and the temporary residents had no right to claim special representation. As regards landlords, figures showed that on the suggested basis of a holding of 300 acres only absentee landlords, many of whom were only moneylenders, would receive representation. In the case of the Karens there appeared to be no unanimity in favour of separate electorates, particularly for Buddhist Karens, and it might be possible to meet Karens generally by creating a sufficient number of mixed Burmese and Karen constituencies so defined as to contain a substantial majority of Karen voters, whereby it would be possible for the Karen voters to return a Karen member. The view was expressed that it was necessary to avoid the possibility of a situation in the Lower House in which minority representatives could combine with a minority Burmese party to defeat the Burmese majority.

27. *Absence of Agreement.*—Despite great efforts made by members of the Committee to reach agreement by private and informal conversations, it is regretted that no solution of these conflicting views has been attained.

(iii) *Relations between the two Houses.*

28. *Procedure regarding Ordinary Bills.*—The question of the relations of the Houses in legislation had already been touched on in the discussion on the powers of the Senate, when it had been generally agreed that the two Houses should have equal powers in respect of the initiation, amendment or rejection of non-money Bills. Definite proposals were now put forward by a group of Delegates. These were (a) both Houses to be able to initiate Bills, (b) Second Chamber Bill amended by Lower House, henceforth to be treated as initiated in Lower House, (c) Second Chamber Bill rejected by Lower House not to be re-introduced in Second Chamber in the same session, (d) in the event of amendment of a Lower House Bill by the Second Chamber the Lower House could either accept the amendment or demand a joint session, (e) joint session in the event of rejection of a Lower House Bill by the Second Chamber.

29. *Money Bills.*—In the earlier discussion on the Senate a difference of view had emerged as to the treatment of Money Bills, but the subject had not been explored in detail. It was now proposed by the group mentioned above that Money Bills should originate in the Lower House only, but that the Second Chamber might amend or reject, provided they did not delay a Bill more than 21 days.

30. *Certification of Money Bills.*—A number of Delegates thought that the responsibility for certifying that a Bill is a Money Bill should rest with the Speaker of the Lower House, while a number of others favoured certification by the Governor. Alternative suggestions put forward by individual Delegates were (a) that the authority might be the Governor acting in consultation with the Chairmen of both Houses, and (b) that the Speaker would ordinarily certify, but that if his decision were challenged the question should go for decision to a Senior Judge of the High Court.

31. *Solution of Deadlocks between the two Houses.*—General support was given to the proposal that Bills passed in one House but rejected by the other should be returned to the originating House for reconsideration. In the event of a second rejection there should ensue a period of delay, subject to a dispensing power by the Governor in case of urgency, followed by a joint session of the two Houses. The machinery for this might be incorporated in the Constituent Act.

32. *Joint Sessions.*—It was suggested that the Speaker of the Lower House should act as Chairman of joint sessions of the two Houses, but this was not supported. It was generally felt that joint sessions should not necessarily be called in every case in which a difference of opinion emerges between the two Houses, as it may sometimes be preferable to drop a measure in dispute. As regards the authority required for the calling of a joint session there was no general agreement. Proposals designed to provide some latitude in the convening of a joint session were made:—(a) that it should be called on the motion of either house, (b) that it should be called by the Governor at the request of either House, (c) that the Governor if requested by either House to call a joint session should be free to exercise his discretion.

The majority of the Committee considered that the period of delay before the calling of a joint session should be between 12 and 18 months reckoned from the time of failure to agree, and that decisions should be taken there by a bare majority of those present and voting.

33. *Position of Ministers.*—As is mentioned in the section on the Ministers, it was generally agreed that Ministers might be selected from both Houses. There was also general assent to the proposition that Ministers should have the right to speak in both Houses, though they should vote only in that to which they belonged.

34. *Disqualification from Membership of the Legislature.*—As regards disqualification from membership of the Legislature there was agreement that there should be no sex disqualification, that there should be a minimum age limit of 35 for the Second Chamber and that the present conditions regarding insolvents should be modified in such a way as not to subject a bankrupt to harsher treatment than a criminal. One Delegate suggested that conviction by a criminal court should cease to disqualify, and there was a division of opinion as to the possibility of distinguishing between political crimes and crimes involving moral turpitude.

THE FRANCHISE FOR THE LOWER HOUSE.

35. *Question as to whether Extension of Franchise is necessary.*—A group of Delegates proposed the adoption and immediate introduction of adult suffrage for both sexes at the age of 21, and considered

that the suffrage should be restricted to "citizens" of Burma. The definition of citizenship and its relation to the franchise is more fully discussed in the following section. This group also pressed that the first election under the new Constitution should be conducted on the basis of the revised suffrage, a point of view opposed by a number of other Delegates, who considered it essential to appoint a Committee of Enquiry before proceeding to extend the franchise. One or two Delegates considered that no extension of the franchise should be considered until the Constitution had been tested over a period of years of the existing suffrage. It was also pointed out that, whatever the merit of adult suffrage, the position of women and unmarried men under the present system was illogical and required examination.

36. The discussion revealed a widely held opinion that a case existed for the extension of the franchise, but there was no general agreement either on this or on the questions of the date when a new franchise should be introduced and the machinery through which any change should be made.

FRANCHISE AND CITIZENSHIP.

37. *Qualifications for Franchise.*—The Committee had under consideration the general qualifications to be required as a condition for the exercise of the right to vote and also the question of laying down in the Constituent Act a definition of "citizenship," the possession of which should, in the opinion of some, be a necessary condition for the right to elect and to be elected to the Legislature. It was indicated in the course of the discussion that, in the view of those who advocated it, the test of "citizenship" might have a wider application than for the franchise only; it might also be used as a test of eligibility for Government appointments. It was, however, in relation particularly to the right to vote or stand for election to the Legislature that the Committee discussed the question. Those who advocated citizenship as a test for the right to vote and enter the Legislature took their stand on the general proposition that no man should be privileged to take part, either as a voter or as a legislator, in the management of the affairs of Burma unless he could show, either by the proved intention to establish a permanent abode or by the fact of long residence, that he had an abiding interest in the country.

38. *Definition of Local Citizenship.*—Certain of the Dominions have, for particular reasons, defined by statute local citizenship as distinct from British national status; and in one case, that of the Irish Free State, citizenship as defined in the Constituent Act is made the sole qualification (except age) for the franchise. Several of the members of the Committee advocated that this precedent should be followed in the Constitution for Burma; but some difference of opinion was disclosed among them as to the length of residence in Burma to be imposed as a qualification for citizenship, some suggesting 20 years, others 12, and some 7, 5, or 3 years.

39. *Citizenship and Domicile.*—In Article 3 of the Irish Free State Constitution, the provisions of which appeared to commend themselves to the advocates of "citizenship" as a qualification for adoption in the case of Burma, citizenship is defined in terms of domicile. Many members of the Committee strongly deprecated the introduction of domicile as a qualification for the franchise. It was pointed

out that domicile is of two kinds, of origin and choice, and that the latter form presents great difficulty of determination; for this depends not on questions of fact alone, such as residence in a country for a certain ascertainable period, but on intention to establish a permanent residence in that country though such residence may in practice be intermittent. The adoption of domicile, it was contended, would not only give rise to considerable difficulty in practice and tend to promote litigation, but would also disfranchise a considerable portion of the non-indigenous community in Burma. For there are likely always to be many British subjects in Burma, resident for many years in the country in pursuit of business or professional avocations who might never be in a position to prove the intention of settling there *permanently*. Another ground of objection which was taken to domicile was that the adoption of this qualification is at variance with the general practice throughout the Empire which makes the right to vote dependent on British nationality, not on domicile, combined with a greater or less period of residence.

40. *British Nationality plus Residence*.—An alternative which received the support of a section of the Committee was that citizenship for Burma might be defined on the basis of British nationality, combined with a prescribed period of residence of not less than five and, preferably, not less than seven years. It was recognised that a citizenship qualification on this basis would exclude from the franchise many members of the non-indigenous business community, and to meet this difficulty the suggestion was made that for such inhabitants of Burma, who constitute a "special interest" as distinct from a community, the right to vote might be secured not by a citizenship qualification but by membership of a Chamber of Commerce or similar recognised organisation.

More than one member of the Committee, however, expressed anxiety lest the institution of the principle of citizenship even on the basis suggested in the preceding paragraph might introduce not merely restrictions of the franchise, but also discrimination in favour of indigenous inhabitants against British subjects from overseas in respect of commercial enterprise, or at any rate against the inception of such enterprise after the establishment of the new Constitution.

41. The inclusion in the Constituent Act of a definition of Burman citizenship might, it was urged, affect the form of the oath of allegiance and jeopardise the right to appeal to common British nationality for the redress of grievances suffered by Burman citizens in other parts of the Empire.

42. *Threat to Burma of Unrestricted Immigration*.—It was admitted by some of those who advocate Burman citizenship, if only as a temporary measure, that a principal purpose to be achieved is the prevention of Burma's national identity being swamped by the unrestricted influx of inhabitants of the densely populated countries lying to the east and west of Burma. Anxiety was expressed by these Delegates as to the degree to which Indian labourers and industrialists (whatever useful part they may have played initially in developing Burma's agricultural and other natural resources) now tend to dispossess the indigenous inhabitants of occupation and to depress their standard of living. Reference was made to the Report of the Royal Commission on Indian Labour in respect of the floating Indian population which resides in Burma for no more than a few years at the

most and returns to India with its earnings; and it was urged that Burma must be empowered to prevent her own people from being submerged racially and economically by Indian entrants from the one side, and by Chinese from the other. Serious doubt was expressed by other Delegates in the light of Census figures as to the gravity of the menace whether it be regarded from the racial, industrial or economic standpoint; but it was contended that if it was serious it should be dealt with by other means, for example, by non-discriminatory restrictions on immigration. A suggestion was made that for non-indigenous persons a qualification similar to that laid down in the Constitution of Ceylon, *viz.*, a literacy test combined with a property qualification and a period of residence might be prescribed. The view was strongly expressed that it was not in Burma's interest to set up a test which would militate against the principle of equality of treatment of British subjects in all parts of the Empire.

43. In regard to the test for the franchise, many Delegates held that it would be wise to avoid recourse to any qualification so disputable as that of domicile. A preference was expressed by many for as simple a qualification as possible, to rest firstly on British nationality and secondly on length of residence in Burma; and some Delegates thought that the existing electoral rules provided a suitable basis for franchise. On the period of residence to be prescribed opinions varied; the advantage of a reciprocity with the United Kingdom, *viz.*, three months, was mentioned; but positive suggestions ranged from a period of six months to two or three years. As between these suggestions a preference was expressed by several Delegates for a shorter rather than a longer period, for the longer the period of disqualification the greater the number of aggrieved persons who pay taxes but may not vote.

THE HIGH COURT.

44. *Constitution of the Court.*—The Committee is glad to be able to record a substantial measure of agreement on the question of a High Court. On certain points, some of considerable importance, there was a divergence of view; but the Committee was unanimous that the new constitution should make provision for the establishment of a High Court generally on the lines of the present High Court, to be constituted preferably by Letters Patent and to be composed of a Chief Justice and Judges appointed by Letters Patent.

45. *Qualifications of Judges.*—There was no question in the minds of the Committee as to the vital importance for Burma that in selections for appointment to the High Court the proper administration for justice should be the sole criterion without regard to race, class or creed, and that the qualifications at present prescribed would appear to be suitable. One Delegate was opposed to the eligibility of members of the I.C.S. for appointment as Judges of the High Court, and another suggested that the number of I.C.S. Judges should not exceed one-third of the strength of the Court; subject to these exceptions the opinion of the Committee was that the Bench should be composed of the best men available with any of the qualifications indicated. A knowledge of Burmese among the judges was mentioned by some Delegates as an important desideratum.

46. *Qualification of Chief Justice.*—In regard to the qualifications for the appointment of Chief Justice the Committee was more equally divided in opinion. It was said by some Delegates that, rightly or wrongly, there is a feeling, not only among members of the Bar in Burma, but among the people generally, that the Chief Judicial appointment should be filled by a trained lawyer only, and the view was held by some that the best type of appointment is that of a King's Counsel direct from England. For these reasons several of the Committee were of opinion that I.C.S. Judges (some of whom of course have been called to the Bar) should be ineligible for the Chief Justiceship. Others, however, considered that the only criterion should be merit, and that any person qualified to be a Judge of the High Court, including I.C.S. Judges, should be eligible for appointment as Chief Justice. It was observed that on several occasions in the absence of the Chief Justice an I.C.S. Judge has acted as Chief Justice and given general satisfaction in that capacity; and it was contended that the early administrative training of such Judges is a useful equipment for the discharge of the manifold administrative duties attached to the post of Chief Justice. The opinion of the Committee was, however, divided on this point.

47. *Method of appointing Judges and filling Temporary Vacancies.*—It was similarly divided as to where the responsibility should lie for recommendations to the Bench. It was agreed by all that appointment should be by the Crown, but, setting apart the case of appointments from the United Kingdom (to which one or two Delegates were opposed) opinion was divided as to whether recommendations to the Crown should be made by the Governor in his unfettered discretion (through no doubt after consultation with those competent to advise), or at his discretion from a list put before him by his Ministers or strictly in accordance with their advice. The existing practice of appointing temporary additional judges who revert to the Bar was generally disapproved. It was pointed out that if the Court required assistance an additional Judge could be appointed and the original strength of the Court restored on the occurrence of a vacancy. It was generally agreed that acting appointments in short term vacancies should be made from among all persons qualified, including the Judicial Service, by the Governor in consultation with the Chief Justice.

48. *Tenure of Appointments.*—The general opinion of the Committee was that the Judges should hold office during good behaviour, but some difference of opinion existed as to how removal, in the rare event of misbehaviour or incapacity, should be effected. Some of the Committee favoured removal by the Crown on presentation of an Address to the Governor by both Houses of the Legislature; others deprecated the Legislature being involved in any way with the Judiciary; the suggestion was made—but met with little support—that in accordance with what is understood to be the rule in the Crown Colonies, no Judge should be removed except on the report of the Judicial Committee of the Privy Council, the highest appellate body in the Empire.

49. *Age of Retirement.*—On the question of the age for retirement it was generally agreed that it should be in the neighbourhood of 60 or 65. To many the climate of Rangoon is sufficiently trying to make 60 a suitable retiring age; but the Committee saw objection to giving

an age limit which might prematurely deprive the Court of the services of able Judges; some flexibility between these limits was advocated. In this connection mention should be made of the opinion expressed that appointments to the Bench should be restricted to men of 40 years of age or more.

50. *Salaries of Judges.*—The salaries of the Judges should, in the unanimous view of the Committee, be excluded from the vote of the Legislature; for present incumbents the existing rates of salary should be maintained, but in regard to the appointments made subsequently to the institution of the new Constitution the opinion was expressed that Judicial salaries might be fixed by the new Legislature.

THE SERVICES.

(i) *Existing Members of the Services.*

51. *Maintenance of Rights and Safeguards.*—Inasmuch as the Government of India Act and the rules made thereunder by the Secretary of State in Council guarantee certain rights and safeguards to members of the Services, the Committee was unanimously in accord with the recommendations made in this respect in the Report of the Services sub-Committee of the Indian Round Table Conference, and agreed that due provision should be made in the new constitution for the maintenance of those rights and safeguards for all persons who have been appointed before the new constitution comes into force. When the new constitution is drawn up suitable safeguards for the payment of pension (including family pensions) and provident funds should no doubt be provided.

52. *Retirement on Proportionate Pension.*—It was further unanimously agreed that the right of retirement on proportionate pension should be extended, but opinion was divided as to whether the extension should be for a period of five years only or for a longer or an unlimited period.

53. *Officers transferred from India.*—The Committee recognised that the transfer of existing members of the Services from service under Government in India to service under the new Government of Burma might raise questions in regard to their conditions of service that might not be precisely covered by any of the foregoing provisions. If any such questions arose the Committee hoped that they would be dealt with in accordance with the general intention of those provisions, namely, that all necessary steps should be taken to reassure existing members of the Services and maintain their existing terms of service, so that they might serve with loyalty and efficiency for their normal term. The Committee were gravely impressed with the importance in the interests of Burma of making full provision to ensure that the new Constitution should not be handicapped in the initial stages by any diminution in the efficiency of the administrative machine or embarrassed by the economic waste and the difficulties which a change of staff on a large scale would entail.

(ii) *Public Services Commission.*

54. In accordance with the view taken by the Statutory Commission as to the general need for Public Services Commissions to protect the Services from political influences, it was unanimously agreed that a Public Services Commission should be established in Burma.

55. *Size*.—With regard to the size of the Commission, the Committee was generally of the opinion that three members, including the Chairman, should suffice. The suggestion was made but did not receive support that the Commission should be so composed as to represent minority interests.

56. *Method of Appointment*.—As to appointment, all members of the Committee agreed that the appointing authority should be the Governor, but opinion was divided as to whether the Governor in making an appointment should (i) act alone or (ii) act on the advice of the Ministers but with discretion to disregard that advice, or (iii) be obliged to act on the advice tendered to him by the Ministers. Members of the Public Services Commission should hold office “during pleasure” and be removable by the Governor only. It was suggested that they should, after ceasing to be members, be ineligible, for a period to be fixed by the Governor, for further office under the Crown in Burma.

57. *Functions*.—As regards functions, there was general agreement that the Commission should be responsible, under the direction of the Government, for the recruitment of the public services; and that it should be the duty of the Commission to recommend for appointment the best candidates available without distinction of race, class or creed. The Governor, or the Government, as the case might be, should consult the Commission before passing orders on disciplinary questions affecting members of the Services.

(iii) *Recruitment of the Services (other than the Medical Service)*.

58. *Maintenance of Efficiency*.—It was generally agreed that it was essential that the efficiency of the Services should be maintained and that it was of particular importance that men of the required type should be encouraged to enter the Security Services, i.e., the Indian Civil Service and the Indian Police Service as now termed.

59. *European Officers and Method of Recruitment*.—It was also generally agreed that in the case of the Security Services at any rate, it would be essential for some time to come that European officers should continue to be recruited for service in Burma. But opinion was divided as to whether, if Europeans of the required type were to be obtained for these Services, it would be necessary that the recruiting authority should continue to be the Secretary of State. Some of the Committee were convinced of this necessity, as the only means of affording such recruits the assurance as to their position necessary to attract the best men; others were equally convinced that the security resulting from the establishment of a Public Service Commission should enable the Government of Burma to obtain European recruits of a suitable type; while others again considered that it should be left to the new Government of Burma to decide as to who the recruiting authority should be.

As regards the Irrigation Branch of the Indian Service of Engineers, opinion, while not unanimous, was generally in favour of the transfer of appointment from the Secretary of State to the new Government of Burma, the Public Services Commission making the arrangements for recruitment.

60. *Burmanisation*.—The question of the rate of “Burmanisation” was briefly discussed by the Committee and such opinion as was expressed was divided on this question. Some of the Committee

were of opinion that the rate should be left for the new Government of Burma to decide, while others took the view that for the present recruitment might continue in the proportions laid down by the Lee Commission.

(iv) *The Medical Services.*

61. The Committee was generally in favour, in the interests of economy and efficiency, of a combination of the civil and military sides of the Medical Services. It was felt that the cadres of separate services would be too small to offer adequate prospects to suitable candidates. An adequate number of Europeans should be recruited for the requirements of the Army and of British officials and their families. A sufficient number of the members of the Service should be required by the terms of their engagement to undergo such military training and render such military service as they may be called upon to do. The rights and safeguards of officers of the Indian Medical Service serving in Burma at the date when the new constitution came into force would be preserved in accordance with the recommendation of the Committee that the rights and safeguards of existing members of the Services generally should be preserved.

(v) *Loan of Officers from the Governments in India.*

62. The Committee hoped that, on the analogy of what was said in the concluding sub-section of paragraph 3 of the Report of the Services sub-Committee of the Indian Round Table Conference dated 13th January, 1931 (Cmd. 3772, page 66), it would be found possible in suitable cases to make arrangements between the Government of Burma and the Governments in India for the loan of officers. The Committee had particularly in mind the scientific services mentioned in paragraph 5 of the Burma sub-Committee's Report as well as the convenience of obtaining in this way expert advice in irrigation and railway problems. Burma on its part might reciprocate with the loan of officers especially qualified to advise on such matters as forestry development.

EXCLUDED AREAS.

(*Other than the Shan States Federation.*)

63. It was generally agreed that, as was recommended by the Statutory Commission, the areas in Burma now known as "backward tracts" should in future be termed "excluded areas." For the purposes of the Government of India Act these areas included the Federated Shan States. Attention has been directed separately by the Committee to their case.

64. This term "excluded areas" was intended by the Statutory Commission to mean tracts "which must be excluded from the general constitutional arrangements"* and for the administration of which special provision must be made; and in pursuance of this intention the general sense of the Committee was that the administration of these areas, the inhabitants of which, though akin to the Burmans, are admittedly backward and not yet fitted for a share in representative

* Vol. II, para. 128.

democratic government, might well be carried out by the Governor (and in this sense form a "reserved subject"). The view was expressed that it would be advantageous that the Legislature should have full opportunity from time to time to discuss the subject. It was held by some Delegates, however, that as the administration of the areas would constitute a subject reserved for the control of the Governor, discussion in the Legislature should only take place with the consent of the Governor.

65. The view was expressed in one quarter, in regard to this as to other "reserved subjects," that the administration of it should be vested in a "Minister" responsible not to the Legislature but to the Governor.

DEFENCE.

66. The Committee addressed itself to the consideration of Defence on the understanding that, applying to Burma the principle underlying the Prime Minister's statement of policy in regard to India, the subject is one that in existing conditions must be reserved for administration by the Governor.

67. *The requirements of Burma.*—The geographical circumstances of Burma are such that armed aggression by land on a large scale is not a very probable danger, and it was generally agreed that though there is need to guard against raids on the frontier, the armed forces required for frontier defence are not large. The Conference is of course not in a position to formulate any opinion as to the strength of the Army required in Burma after separation, either for external or internal defence; but the hope was expressed that it need not exceed the forces hitherto maintained in the country in normal conditions. It is not contemplated that Burma should undertake her own Naval defence; for that she must rely on the British Navy; and there was no opposition to the suggestion that some contribution to the cost of British Naval Defence should be made by Burma.

68. *Control of Arrangements and influence of Public Opinion on Defence matters.*—Though it was generally agreed that control of the administrative side of Defence should be entrusted to the Governor for the present, and though some Delegates admitted that a Burman Ministry would not be in a position to undertake this responsibility at once (one Delegate suggested that reservation of the subject should be limited to five years), a desire was expressed by several Delegates for opportunity for the Legislature to discuss and exert some influence over certain aspects of Army policy, particularly that of "Burmanisation." It was recognised that time must elapse before indigenous forces could be recruited and trained; but several Delegates expressed the opinion that recruits for such forces would readily be forthcoming and some were of opinion that conscription could be enacted by, a popularly elected Legislature. A suggestion was made that the administration of Defence should be entrusted to a "Minister" who might be responsible to the Governor—to whom the whole control and disposition of the troops would be entrusted—for technical and strategic matters, and responsible to the Legislature for policy in regard to recruitment and Burmanisation and matters less directly affecting operations.

This suggestion met with considerable criticism. The view was widely expressed that division of a subject, all branches of which are so closely connected as in Army administration, is not practicable. It was pointed out that unity of control is essential and that so long as there are maintained in Burma forces such as British troops for which Parliament is responsible, control must be vested in the Governor who owes responsibility to His Majesty's Government and Parliament.

69. *Discussion of Defence matters in Legislature.*—On the question of the medium by which the Governor might maintain contact with the Legislature in regard to Defence matters and explain his policy and requirements there was some divergence of view. Some of the Delegates thought it would be objectionable and inconsistent with the theory of joint responsibility of the Ministry that the medium should be a "Minister"—particularly if he were an official—responsible to the Governor and not to the Legislature. It was suggested that a procedure might be adopted similar to that practised in the Indian Legislature by which, when opportunity is afforded for discussion of Army affairs, the Secretary to Government in the Army Department or, on occasion, the Commander-in-Chief addresses one or other House; and the suggestion was put forward, which received considerable support, that a committee of the Legislature might be established to which information on military matters might be imparted, and through which the Legislature might gain familiarity with problems of military administration and acquire the knowledge requisite before transfer of responsibility could be practicable.

70. *Expenditure on the Defence of Burma.*—The view was expressed that lack of control of Defence by the Legislature was inconsistent with liability for the cost; but it was generally agreed that, wherever control lay in existing conditions, Burma must pay for her military forces, and that the necessary supply should not be subject to the vote of the Legislature. The system of a fixed Budget grant for a term of years was mentioned as possibly a convenient arrangement, though it might be necessary in cases of emergency to exceed such grant.

71. *Building up of Indigenous Forces.*—As was recognised by the Indian Conference in respect of India, defence questions must be of increasing concern to the people of a self-governing country; and the general feeling of the Committee was in favour, not only of the development of indigenous forces but also of the provision of means by which the Legislature of Burma might be kept acquainted with Army matters during the period in which, as was generally recognised to be necessary, the responsibility for Defence remains vested in the Governor as answerable to Parliament.

THE MINISTERS.

72. *The Council of Ministers, its Appointment and Composition.*—The ideal in contemplation being responsible government by a Ministry responsible to the Legislature and, through it, the electorate, for the administration, in existing circumstances, of most, and eventually, of all branches of government, the Committee held, without any dissentient opinion, that the Ministry should normally be

appointed on the usual constitutional method by the Governor in consultation which the leader of the party commanding the largest following in the Lower House, assuming that he was willing to undertake to form a Government. This party leader (who after the formation of the Government would be described as Chief Minister, or perhaps preferably, as Prime Minister) need not be confined in his choice of Ministers to the Lower House, and, in the general view of the Committee, it would be desirable that one of the responsible Ministers at least should be a member of the Upper House. Several Delegates, however, despite the objections to laying down any restriction on the Chief Minister's field of choice and to specifying any particular class in the Legislature as ineligible for ministerial appointment, thought that in present circumstances nominated members of the Upper House (if nomination were prescribed in the Constitution) should not be eligible for selection.

73. *The Number of Ministers.*—On the question of the number of Ministers under the new Constitution, the Committee was not in a position to make a definite recommendation, but comparing the volume of administrative work likely to devolve on the Ministry with that hitherto borne by two Ministers and two Executive Councillors, it inclined to the view that six to eight would be suitable and that it would be well to prescribe eight as a maximum. This maximum, it was suggested, might be laid down in rules attached to the Constitution Act, as not to be exceeded without the approval of the Governor.

74. *Joint Responsibility.*—The Committee had no hesitation in adopting the view that the Ministry should be collectively responsible to the Legislature, and though some would have preferred that, as in most constitutions, this principle should be established by practice and convention, a greater number considered that the joint responsibility of the Ministry should be definitely stated in the Constituent Act.

75. *Circumstances in which the Ministry should relinquish Office.*—The Committee considered the question whether, having regard to the principle of joint responsibility, it is possible to define in what circumstances a defeat should lead to the resignation (or dismissal) of the Ministry. Several thought that when the Ministry of the day was defeated on an important Government Bill, it should resign forthwith; others considered that it should be at liberty to decide whether the measure lost was in fact of such importance to the Government's programme, and the circumstances of the defeat such as to indicate the forfeiture of the confidence of the House; others again were of opinion that the Government should not be forced to resign save on a direct vote of no-confidence, which in the view of a minority should not be effective save by a prescribed minimum majority of votes. Few of the Committee supported this last suggestion which if adopted would in theory enable a Ministry to cling to office though unable to command a majority in the House to support its measures; the majority of the Delegates took the view that it was unwise to put into a Constituent Act a direction which the circumstances of the case might make it impossible to follow. All, however, agreed that, in accordance with the principle of joint responsibility, an adverse vote must be held to affect the whole Ministry and not an individual Minister only.

76. *Position of Governor.*—The Committee was of opinion that while the Chief (or Prime) Minister would ordinarily preside over the Cabinet (or Council of Ministers) the Governor should have full discretion to summon his Ministers and preside at such meetings. They were agreed, also, that the Governor should be fully apprised of the policy of his Ministers and be kept informed of decisions taken at meetings at which he is not present in person. The view was taken that while full information as to the Ministers' actions would be essential to the Governor to enable him to discharge his duties and special responsibilities, it would be of no less advantage to the Ministers that he should preside, at his discretion, at Cabinet meetings. This would also afford opportunity to keep them in touch with subjects reserved for his administration.

77. *Administration of Reserved Subjects.*—The question was also raised whether the Ministry or Cabinet should contain "Ministers" responsible not to the Legislature but solely to the Governor in respect of subjects reserved for his administration: some Delegates held, and others strongly opposed, the opinion that the Governor should have discretion to appoint officials or non-officials as "Ministers" in charge of subjects administered by him, who should stand or fall with the Ministry as a whole, thus preserving the appearance or joint responsibility though they would in fact be responsible to the Governor, and not to the Legislature, and should be eligible for re-appointment by the Governor to every succeeding Ministry: others took the view that the Governor should not appoint "Ministers," to be included in the Ministry, in charge of subjects administered by himself, but should have discretion to bring to meetings of the Cabinet the officials engaged in the administration of these subjects, so that the Ministers responsible to the Legislature would be enabled to discuss matters of common concern.

78. *Rules for conduct of Executive Business.*—In regard to rules for the conduct of Executive business the suggestion was made that they should be framed by the Governor in consultation with his Ministers: some Delegates viewed with anxiety any relaxation of the Governor's control of this power, which at present reposes with the Governor-General or the Governor of a Province, as the case may be.

79. *Remuneration of Ministers.*—As to the salaries of the Ministers, several of the Committee felt that under the new Constitution a scale of salaries considerably lower than those now drawn by Ministers would be adequate (the figures of Rs. 2,000 p.m. for a Minister and perhaps Rs. 2,500 p.m. for the Chief Minister have been suggested); and the opinion was held by many that the salaries should be fixed in the first instance in rules framed under the Constituent Act, the Legislature to be empowered to amend the rate thereafter, having regard to the financial resources of the country. There was general agreement that whatever power might be given in the new Constitution to vary the scale of salaries of Ministers it should not be permissible to make any change affecting adversely any Minister during his tenure of office. The suggestion was made by more than one Delegate that whereas ministerial salaries might well be reduced below their present level, it would consort with the dignity of the Ministers' position that they should be provided with official residences.

THE GOVERNOR'S POWERS.

80. *Reserved Subjects and Safeguards.*—It was agreed that the transfer of power to Ministers responsible to the Legislature must be accompanied by safeguards necessary in the interest of Burma until further experience had been acquired in the management of the machinery of responsible government. In general, the Committee accepted the principles enunciated in the Second Report of the Federal Structure Committee of the Indian Conference in respect of the ordinary and special powers of the Governor-General of India, as suitable to be applied to the case of the Governor of a separated Burma. Paragraphs 16, 21 and 22 were specifically cited as directly applicable in substance.

81. *Subjects to be administered by the Governor.*—In particular it was proposed that the Governor should himself be responsible for the administration of the following subjects; Defence; External Affairs; Excluded Areas (including the Shan States); Monetary Policy; Currency and Coinage; Ceremonial, Titles and honours; Ecclesiastical Administration; and Officials recruited by the Crown or the Secretary of State or by the Governor for services administered by himself.

82. *The Governor's Power of Intervention for particular purposes.*—It was further proposed that the Governor should have the power to intervene in the fields of legislation and administration for the purpose of safeguarding the following matters—the protection of minorities; the preservation of Burma from grave internal peril; the financial stability and credit of Burma and fulfilment of her debt obligations, the protection of Imperial interests; the rights and privileges guaranteed to officials; and any matters affecting the reserved subjects enumerated above. It would be for the Governor to decide whether any particular issue did or did not fall within either of the categories referred to in paragraphs 81 and 82.

83. *Emergency Powers.*—The reservation in existing conditions to the Governor of powers over the field covered above was generally agreed to, and it was also admitted that he must be given adequate powers to enable him to carry on government in an emergency and to take over the government in whole or in part in the unhappy event of a breakdown of the constitutional machine. All agreed that the safeguarding and emergency powers of the Governor, as opposed to the powers in the reserved field, should be employed as rarely as possible, both in order to demonstrate the reality of the transfer of power to the Ministry and to discourage Ministers from relying upon the Governor's powers to relieve them of the burden of unpopular decisions that might be demanded in the interests of the nation.

84. *An Alternative Suggestion.*—As an alternative to the express reservation of certain subjects, a suggestion was made that all subjects might be placed under the control of responsible Ministers, the Governor being given a power of superintendence which he would exercise to an unlimited extent in the case of subjects classed above as reserved, but only rarely for the purposes mentioned above in the remaining field. By such means it was urged, Ministers would be trained in the handling of reserved subjects and a gradual further transference of power could take place within the framework of the

Constitution. In opposition to this proposal it was pointed out that under it Ministers would in fact be responsible both to the Legislature and to the Governor in respect of certain subjects, thereby producing a blurred responsibility and perpetuating dyarchy in its worst form. The whole object of placing certain subjects directly under the Governor's control was to preserve in a limited field his responsibility to Parliament direct and undivided. There would be no difficulty in instructing the Governor in his administration of the reserved subjects to maintain touch with his Ministers and the Legislature and through them with public opinion.

85. *Fundamental Safeguards for Minorities.*—In the course of the discussion of the Governor's duty to safeguard the interests of minorities the suggestion was made that additional statutory protection, for which the Governor should be made responsible, should be afforded on the following lines:—

(1) Protection of life and labour, irrespective of birth, race, religion, etc.

(2) Free exercise of religions or beliefs, the practice of which is not inconsistent with public order.

(3) All inhabitants to be equal before the law, and to enjoy the same civil and political rights, etc.

(4) No person to be under disability for admission into any branch of the public services merely by reason of race, etc.

(5) No laws, rules, etc., intended to discriminate against minorities to be passed by Government, Legislature, Corporations, etc.

(6) Racial, religious or linguistic minorities to have the right to establish their cultural and welfare institutions, etc.

It was suggested that in upholding these rights, there should be a final right of appeal to the Privy Council. But this suggestion was criticised on the ground that it would inevitably have the effect of bringing the Government or Governor of Burma, in the discharge of their administrative responsibilities into conflict with the highest Court of Appeal in the Empire.

86. *Commercial Discrimination.*—It was also proposed that the Constituent Act should contain provisions defining clearly the position and rights of the commercial communities. The view was expressed that the opinions recorded in the Fourth Report of the Federal Structure Committee of the Indian Conference, document R.T.C. 22, particularly para. 18 and para. 26, would form the basis of a suitable provision. But it was urged that in addition to security so provided for subjects of the Crown in Burma, British subjects should be secured the right to enter and to trade in Burma in the future as hitherto. The Governor, it was suggested, should be given full statutory powers to ensure that effect was given to such provisions.

FINANCIAL ARRANGEMENTS.

87. *Governor's Powers.*—There was general agreement that supply for the reserved subjects and service of debt should be non-voted and should form the first claim on the revenues of Burma, and further, that the Governor should be given whatever powers might be necessary to secure, without dependence on the vote of the Legislature,

funds for the discharge of his responsibilities. It was also proposed, without objection being raised, that the existing system of the presentation of an annual financial statement in lieu of a Finance Bill should be continued, and that all the revenues of Burma should be paid into a single account. As is mentioned in the chapter on Defence, para 70 above, it was thought that in respect of Defence the desirability of a contract grant fixed for a term of years might be left to be settled as a matter of administrative convenience. It was suggested that the Governor's prior sanction should be required to measures affecting the public debt, and public revenue, or imposing a charge on the revenues, and that in accordance with usual practice, proposals involving taxation or appropriation should be made only on the recommendation of the Governor, acting of course on the advice of Ministers, in matters falling within the field for which they are responsible.

88. *Railways*.—As regards Railways, there was some discussion as to the desirability of entrusting the management of the railways, as opposed to policy (which it was agreed should rest with a responsible Minister), to a Railway Board to be set up by Statute. The Committee was not unanimous on this point, but it was agreed that if such a Board were set up it need only be very small. There was a majority in favour of separating the railway from the ordinary budget. One Delegate suggested the establishment of a similar Statutory Board for the management of Posts and Telegraphs, which, like Railways, is a "commercial" department and as such should be run on strictly business lines, free from the political pressure to which a department under the direct control of an elected Minister is liable.

89. *Appointment of Financial Adviser*.—In the event of Burma being separated from India, her Government will have to deal with financial questions of which neither officials nor non-officials in Burma have hitherto had opportunity to gain experience. There was, accordingly, general support for a proposal that the Governor and the Ministers (including the Finance Minister), should have the assistance of an expert Financial Adviser, who would have important duties in connection with the annual budget and capital transactions. It was emphasized that the financial stability of a country and its credit abroad depend to a great extent on the soundness of its budgetary arrangements. As it is proposed (para. 82) that the Governor should have a special responsibility in respect of Burma's financial stability and credit, it was suggested that to enable him the more effectively to discharge this responsibility, the Financial Adviser should be given power to scrutinise all financial proposals, and to bring to the notice of the Governor (to whom he would be responsible in this regard) any proposals conflicting with sound budgetary methods. The Financial Adviser should have the right to speak in the Legislature, but not to vote.

90. *Loans*.—Some general discussion took place regarding the manner in which external loans should be raised, but no definite conclusions were formulated. It was pointed out that it might not be possible for a self-governing Burma to raise loans in the name of a Secretary of State. A possible plan might be for the provisions of the Colonial Stocks Act to be applied to Government of Burma loans.

91. *Appointment of Auditor-General.*—There was general agreement to the proposal that the Constituent Act should provide for the appointment of an Auditor-General.

CONCLUSIONS OF THE COMMITTEE.

The Committee failed to reach agreement upon a number of the heads for discussion contained in the Agenda submitted to it by the Chairman. Among such matters must be included the claim of the Minorities to separate representation in the new Parliament, the question of the franchise and the method of election to elected seats in the Senate.

There was, nevertheless, very general agreement upon the outlines of a constitution which, applying to the case of Burma the principle underlying the Prime Minister's statement of 1st December, 1931, in regard to India, should place upon the Legislature of Burma responsibility for the government of the country, subject to the qualification that in existing circumstances certain specified subjects must be reserved to the Governor, that in finance such conditions must apply as would ensure the fulfilment of Burma's due obligations and build up her credit and maintain her financial stability, and, finally, that the Governor must be given the necessary powers in all fields to discharge the responsibilities specifically placed upon him. It is possible to embody the agreement reached on this broad question in the following general conclusions:—

(1) The Committee agreed upon the establishment of a Legislature consisting of two Houses, to be styled the Senate and the House of Representatives, the two bodies to be collectively described as the Parliament of Burma.

(2) It was agreed that the Senate should be about one-third of the size of the House of Representatives, that it should be composed partly of elected and partly of nominated members, that a rotational system should be introduced under which the tenure of a seat in the Senate should be for 6 to 7 years, and that the Senate should only be dissolved in exceptional circumstances.

(3) It was agreed that the maximum life of the House of Representatives should be five years, and that the "official bloc," in the sense of officials entitled to vote as well as speak, should be abolished. But it was admitted that it would be necessary for officials to explain the Governor's policy in the House.

(4) It was agreed that Bills passed in one House, but rejected by the other, should be returned to the originating House for reconsideration. In the event of a second rejection, there should ensue a period of delay, subject to a dispensing power by the Governor in cases of urgency, followed, if necessary, by a joint session of the two Houses.

(5) It was agreed that Ministers might be selected from either House and should have the right to speak in both Houses. The number of Ministers should, in existing circumstances, be not more than eight, they should be collectively responsible to the Legislature, and there should be a Chief or Prime Minister, who would normally be the leader of the strongest party in the House

of Representatives. It was also agreed, that, while the Governor might not ordinarily preside over the Council or Cabinet of Ministers, he should be able to do so at his discretion.

(6) It was agreed that there should be no sex disqualification from membership of either House of the Legislature, that there should be a minimum age-limit of 35 for membership of the Senate, and that the present conditions regarding insolvents should be modified in such a way as to prevent a bankrupt from harsher treatment than a criminal.

(7) It was agreed that the Shan States should take no direct part in the government of Burma, and should not be represented in the Legislature. It was also agreed that the other areas excluded from the purview of the Legislature should be administered by the Governor, but that periodical discussion of the affairs of these areas should be allowed in the Legislature.

(8) There was general agreement as to the field of the Governor's responsibilities, and that in addition to the ordinary powers of returning, reserving, and disallowing legislative measures, the Governor should have all necessary powers to enable him to discharge his special responsibilities, including the power to secure requisite funds. It was considered that the Governor should be instructed to keep in touch with the Ministry and the Legislature in the administration of subjects entrusted to him.

(9) It was agreed that there should be no discrimination against minorities or commercial interests.

(10) As regards Defence, the desirability of the development of an indigenous defence force was generally recognised, and it was agreed that means should be found to keep the Legislature informed of questions of Army administration.

(11) There was a general measure of agreement upon the structure of the new High Court.

(12) As regards the Services, it was agreed to preserve the existing rights and safeguards (including pensions) for officers appointed before the new Constitution should come into effect, and that the right of retirement on proportionate pension should be extended. The establishment of a Public Services Commission was also agreed upon.

Chairman: I think I had better follow the usual practice and take the Report paragraph by paragraph. The Delegates have had some time—three or four days—to study the Report, and I do not think it is necessary, therefore, to read it through, but I might call out the number of each, and any observations can be made by the Delegates as each number is called.

In the introductory paragraph I would suggest that the word "almost" should take the place of "practically" ("sitting practically") for the sake of assonance.

Sawbwa of Hsipaw: We do not consider that the reference to the Shan Federation in paragraph 3 is quite correctly recorded. The words used are, "... to maintain the present position of the Federation—which is that of a separate sub-administration in the direct charge of the Governor." I do not think we have put it quite in that form.

Chairman: It is those words, "the present position of the Federation" to which you object?

Sawbwa of Hsipaw: Yes. We submitted a memorandum to the Secretary to State last year, and also a supplementary memorandum to His Excellency the Governor, dealing with the point.

Chairman: What words would you suggest in place of those of which you complain?

Sawbwa of Hsipaw: I would suggest:—"to maintain the position of the Federation as prayed for in our two memoranda."

Chairman: It is always a little inconvenient to proceed by reference to other documents. Would it be possible to condense it into one sentence?

Mr. Isaac Foot: Could we have, after the word "Federation," the words "as expressed in memoranda submitted?"

Chairman: It is better, if possible, to have the actual sentence rather than a reference to other documents.

Sawbwa of Hsipaw. My colleague, the Sawbwa of Yawngwhwe, has some words which may meet the case.

Sawbwa of Yawngwhwe: The words are, "the Shan States claim in relation to the Burmese Government, the status of full internal autonomy, including control of the mines and forests in their respective States."

Chairman: We are dealing with a constitution for Burma, not with any changes that might be made in the actual position of the Shan States.

Lord Winterton: Would not it meet the case if we put in the words: "to maintain the present position subject to the modifications which the Sawbwes have suggested in a memorandum," or something of that kind?

Sir O. de Glanville: We might omit the words: "the present position of the Federation," and merely put: "to maintain it as a separate administration."

Major Graham Pole: We might omit the word "present" and say, "to maintain the position of the Federation."

Chairman: "to maintain the position of the Federation in the direct charge of the Governor." Would that do?

Sawbwa of Hsipaw: No, My Lord, not exactly. What we have already put in our memorandum almost comes to this; that whatever the Governor does in the Shan States should be in consultation with the Council of the Shan Chiefs.

Lord Winterton: The Report says here:—

"the wish of the Chiefs, whose unanimous views they represented was, so far as possible and subject to certain modifications which they desired in the internal administration of the Shan Federation."

Are not all these points to which you have referred covered by that sentence?

Sawbwa of Hsipaw: But then there are the words: "the present position."

Lord Winterton: Then leave out the word "present."

Chairman: We will cross out the word "present," because we are dealing here with the relations of the Shan States to Burma. We are not dealing with any changes which might or might not be made in the relations of the Governor with the Shan States.

Sawbwa of Hsipaw: It would come to the same thing as was said by the Statutory Commission which came to Burma, that we are satisfied with our present position. Our Delegates came over last year, and we are not satisfied with our present position. Under this the present position comes in again.

Chairman: Well, we will leave out the word "present," as Lord Winterton suggested. The words: "subject to certain modifications which they desired in the internal administration of the Shan Federation, to maintain the present position of the Federation in the direct charge of the Governor," express what you wish, do they not—"subject to certain modifications"?

Sawbwa of Hsipaw: You are also putting in: "which is that of a separate sub-administration?"

Major Graham Pole: Take out the word "present," and take out the words: "which is that of a separate sub-administration."

Chairman: Yes, I am proposing to leave out those words and to say: "to maintain the position of the Federation in the direct charge of the Governor."

Sawbwa of Hsipaw: "in consultation with the Shan Chiefs' Council."

Chairman: Is not that covered by the words: "subject to certain modifications which they desired in the administration of the Shan Federation?"

Sawbwa of Hsipaw: We think it is a detail but it does mean a great deal to us. It may appear to be a small detail but when it comes to practice it is likely to be overlooked.

Chairman: I am not saying it is not important. I am only suggesting that from the point of view of this Report we are really dealing with the question of whether or not the Shan States should come into intimate relation with the organisation of the new Burmese Government. We are not discussing any changes which might be made in the relation of the Governor to the Shan States. We are only looking at it purely from the point of view as to whether or not the Shan States should come into the Burma Constitution. The Report says: "the wish of the Chiefs whose unanimous view they represented was so far as possible and subject to certain modifications"—which are the things you mentioned—they should remain in the direct charge of the Governor. I think that does represent your view, though you may say: "We want certain changes, such as consultation with the Chiefs and so on." That is another matter with which we are not dealing here.

Major Graham Pole: It would be "in the direct charge of the Governor, subject to certain changes which they desire in the administration."

Chairman: "To maintain the position of the Federation in the direct charge of the Governor, subject to certain modifications which

they desired in the internal administration of the Shan Federation." I think that meets it; it gives a little more emphasis to those changes without enumerating them. Will that meet you?

Sawbwa of Hsipaw: I think that will meet the case as far as this is concerned, but as for the next paragraph I have something to say.

Chairman: As to the next paragraph, by all means.

Tharrawaddy U Pu: What is the actual correction My Lord?

Chairman: Of course, you will allow me to reserve a little redrafting for some of these alterations. It is always a little difficult, when in general conference, to know that it is exactly right, but roughly speaking, we were putting it in this way in order to meet the wishes of the Chiefs:

"The wish of the Chiefs, whose unanimous views they represented, was to maintain the position of the Federation in the direct charge of the Governor, subject to certain modifications which they desired in the internal administration of the Shan Federation."

Tharrawaddy U Pu: Are you keeping the words "to maintain the present position of the Federation"?

Chairman: That is all cut out. You ask me how it reads. That is how it reads now, the point being to get a little more emphasis to meet the Sawbwaw on the point they have raised about being under the direct charge of the Governor.

Tharrawaddy U Pu. I wondered whether that affected the present position of the Federation.

Chairman: They do not like that, and they have cut it out. It is not that they do not like it, but it does not really represent the views that they expressed.

U Maung Gye: I do not know whether it is clear if the Shan Chiefs desire that subjects, like the railways, should be left in the direct charge of the Governor.

Chairman: Do we not get on to that in the next paragraph—matters of common concern? I think this is the general statement, and then the Sawbwaw said that they wanted to say something on paragraph 4.

Tharrawaddy U Pu: I wondered whether instead of the Governor they meant the Burma Government.

Chairman: That, certainly, they do not mean. We now come to paragraph 4.

Sawbwa of Hsipaw: In connection with paragraph 4, I want to point out that the fifth paragraph of our circular letter * stressed the imperative need of representation on matters common to both countries; and in the discussion also in Committee, U Ba Pe suggested three possible ways in which the relationship of the Shan States and Burma could be treated. The third of these, while still respecting the full autonomy of the States in purely domestic matters, presupposes some form of relationship with the new Government of Burma on

* *Vide* Appendix I of the Report as finally adopted.

matters of mutual concern. This relationship corresponds to our original request in paragraph 2 of our memorandum of 1930, page 5, on which there has been some discussion and a good deal of misunderstanding. U Maung Gye then suggested that the Shan States might have representation in the Upper House. On this, Mr. Isaac Foot remarked that "there was nothing that would prevent a subsequent discussion as to the Shan States having representation in the Upper House to deal with points that have been mentioned by Lord Lothian." These are the common subjects. The attitude of the Shan States towards such inclusion is simple. I spoke on the matter very briefly the other day, and remarked that their representation depended entirely on what matters arose for discussion in the Senate. The Shan States do not seek to interfere in any way with the Government of Burma; they merely wish to leave the door open to them to attend upon the summons of the Governor when subjects that have a bearing upon the Shan States are to be discussed. Such matters as Defence, External Relationship, Customs, Railways, Currency and Coinage must of necessity concern the States as well, upon which they feel they should be able to voice their attitude and their opinion. These points have arisen in a meeting of the Conference. The Delegation feels that an additional paragraph should be embodied in the Report to make it clear to the Council of the Chieftains exactly the relationship with Burma that was mooted here. It is desired, also, that their right of representation upon communal points should be embodied in the new Constitution, and I think the paragraph may be drafted in some such way as this:

"The question of the representation of the Shan States in the Upper House of Burma, so far as common interests are concerned, was reserved; and nothing decided that would in any way exclude them from such representation, and such representation as may be recognised in communal matters be embodied in the new Constitution."

I will ask that the door be left open to us to discuss common interests in the Upper House.

Chairman: I was wondering when you were speaking whether this was a matter which had been discussed at the Conference. What we are doing now is to report on what was discussed at the Conference, and I was hesitating as to whether this could be allowed.

Sawbwa of Hsipaw: I think it was suggested by U Maung Gye.

Chairman: I have asked the Secretary to refresh my memory and he says . . .

Sawbwa of Hsipaw: I think it was said that there was nothing that would prevent subsequent discussion on the subject of the Shan States.

Chairman: I was going to make that observation. If you had permitted me to finish my sentence, I was going to say that the Secretary found that one or two members of the Committee did mention the point. Therefore, I think, that on that ground it can be admitted. Obviously we could not permit all sorts of subjects to be raised in the discussion on a report which professes to be a record of the conclusions arrived at by the Committee. Would it meet your point if at the end of paragraph 5 we say:

"As an exception the Shan States' Delegates are of opinion that the possibility should not be excluded of the Federation having representation in the Upper Chamber for the discussion of matters of common concern."

Would words to that effect meet your wishes?

Sawbwa of Hsipaw: I think that will cover the point.

Chairman: I think that something of that kind would fit in at the end of paragraph 5, as an exception to the general proposition, of course. Other Delegates can object if they like.

U Ba Pe: I am not quite clear on this point. Is it that the Shan States should be under the direct charge of the Governor and also have representation in the Upper House.

Chairman: The Shan States' Delegates do not put the point quite so sharply as that. Their suggestion is that the possibility should not be excluded, but that it should be left open for subsequent consideration whether, when subjects are discussed in the Upper House—in the Senate, as we have now named it—of common concern, they might have the opportunity of having some representation to enable them to join in discussions on points which would affect them as well as Burma. That is as far as I, personally, would go.

U Ba Pe: That would not suit the Burmese people.

Chairman: I cannot object to your saying that strong objection to this proposal was felt by some of the Delegates. I think that if the Sawbwa of Hsipaw is allowed to have his point expressed and put in the Report I cannot object to the opposite opinion being also expressed.

U Maung Gye: Is it possible on constitutional grounds?

Chairman: I am not dealing with the possibility of it on constitutional grounds. I am only proposing to say that that view was expressed. After all, a great many of the views expressed during the Committee's proceedings were not admissible on constitutional grounds, and if I rule this out on that account I should have had to rule out many things. It is only an expression of the view of the Sawbwa of Hsipaw and if there is also the expression of view on your side I do not think there can be any objection. Beyond that I cannot go. It is not possible to say whether it would fit into the constitutional structure.

Mr. Isaac Foot: On the ground of the completion of the record the Sawbwas have a strong case. Certainly this does not commit the Burmese representatives in the slightest to an endorsement of that view, but it simply suggests that in the future these questions might arise, and that the claim may then be met, probably completely, by the constitutional argument as *U Ba Pe* has said.

U Ba Pe: You are allowing the Sawbwas to revise their views, but you shut us out from considering the point altogether.

Chairman: No, you are not quite correct. I am not allowing them to revise their views. They are stating that these views were expressed during the Conference, otherwise this could not have been admitted at all. They say not only that the views were expressed, but were embodied in a document officially circulated to the Conference.

U Ba Pe: Quite so, but it was never discussed in detail.

Mr. Isaac Foot: Surely, as a statement of fact, *U Ba Pe* raises no objection to the statement that this was put forward by the Sawbwas?

U Ba Pe: It is also a statement of fact that there was no discussion of the subject.

Chairman: We can easily state that this matter was not discussed, and that there was a strong feeling expressed by some of the Delegates that this would not fit into the constitutional scheme for Burma.

U Ba Pe: We shall have to state our views later on at the Plenary Session.

Chairman: Of course you can do that. This is only a minor thing, a matter of wording.

U Ba Pe: I have no objection to it being put in.

Chairman: The only thing we are dealing with here is whether this Report is a correct representation of the views expressed by the Delegates.

Mr. Harper: I should like to see the matter covered of the right of ingress and egress to and from the Shan States through Burmese territory. I understand that cannot be raised now, but may be raised later on at the Plenary Session.

Chairman: I think the Plenary Session would be a very good time to raise it. We can now, I think, dispose of paragraphs 4 and 5 by putting in the amendment.

Sawbwa of Hsipaw: How does the amendment read now?

Chairman: I have suggested these words: "The Shan States' Delegates are of opinion that the possibility should not be excluded, of the Federation having representation in the Upper Chamber for the discussion of matters of common concern"; then at the request of *U Ba Pe* I am adding a sentence to the effect that this was objected to by a section of the Delegates.

U Ba Pe: We want it stated that this subject was not properly discussed.

Chairman: Could we not say, rather, that the subject was rather briefly alluded to in the course of the Conference?

U Ni: It was not discussed at all.

Chairman: It was only briefly alluded to. If you say it was not discussed it suggests that it was not mentioned at all.

U Ba Pe: The suggestion was never discussed in detail.

Lord Winterton: I rather agree with my friends on the left. I think it would be an advantage if the Sawbwa of Hsipaw would refer us to the place in which he mentioned this matter.

Sawbwa of Hsipaw: It was mentioned in my circular letter, page 2, paragraph 4.

Chairman: He put in an official letter and it was referred to in discussion, although *U Ba Pe* is quite right, it was not at all fully discussed.

Lord Winterton: I would suggest the case is met by the Chairman's suggestion, though, as I say, I have some sympathy with the

views expressed on the left, because I think it is a mistake to bring up points now. From that point of view, I rather sympathise with those on the left, and I hope they will show an equal sympathy with me if they try to bring up something which has not been discussed and I object. I would suggest that if they accepted the Chairman's suggestion which he has put forward, it really meets the case.

Sawbwa of Hsipaw: But this is so clear; this is what Mr. Isaac Foot said: "There is nothing which will prevent further discussions as to separate representation in the Upper House."

Chairman: You are now pushing at what is called an open door, are you not?

Sawbwa of Hsipaw: We are asking for a door to be left open to us.

Chairman: I mean an open door as to whether reference should be made to it in the Report.

Major Graham Pole: Mr. Foot said there was no reason why it should not be discussed later, but as a matter of fact it was not discussed later.

Chairman: That often happens in discussion; it is said: "We are coming to that"—and we never do. Now shall we go on to paragraph 6?

Mr. Ohn Ghine: Have you finished paragraph 5?

Chairman: With that addition.

Mr. Ohn Ghine: May I say something more?

Chairman: Yes.

Mr. Ohn Ghine: The Report says that "on this basis it was accepted by the Committee." I do not think it was accepted by the whole Committee. On this side we have not stated our views in detail with regard to the Shan States. I do not know whether we can do so at this stage.

Chairman: Well, if it was not accepted by the Committee, it was suggested, shall we say, by a majority of the Committee?

Tharrawaddy U Pu: That is a question. We represent the majority views, we Burmans, representing the Burmans of Burma; so that we must be classed as the majority, I take it, My Lord.

Major Graham Pole: You must define the word "majority."

Tharrawaddy U Pu: We are the majority.

Chairman: I do not think we can go into that controversy. I am dealing with the Conference.

Tharrawaddy U Pu: The majority of Delegates present at the Conference?

Chairman: I can only deal with the Conference; I cannot draw a distinction between one man and another and say that one man is a majority and the other is not.

Tharrawaddy U Pu: That is a vital point.

Chairman: But I think we are interrupting Mr. Ohn Ghine; he has the attention of the House; you are on another point.

Tharrawaddy U Pu: When Your Lordship talks about "majority," I think I must repeat my objection which I raised at the beginning of the Conference, when I brought to Your Lordship's notice the way in which this Conference had been constituted by the Governor of Burma. We Burmans represent at least 12 millions.

Chairman: I do not want to stop you, but is not this a more suitable subject for the Plenary Conference? You can denounce the constitution of the Conference.

Tharrawaddy U Pu: I wish to express my strong objection to the use of the words "majority" and "minority."

Chairman: I am using the words "majority" and "minority" not with reference to whether a Party here is representative of a majority in Burma, but merely to assist the Government to know what the Conference thinks.

Tharrawaddy U Pu: But we were told definitely that no votes would be taken and no question of "majority" or "minority" would arise at the Conference.

Chairman: No, no votes would be taken, but I thought you would have sufficient confidence in me to suppose that I should realise when a majority takes a certain view.

Tharrawaddy U Pu: Then it comes to this; that you take the view of the Conference by way of looking at the numbers representing certain views. When the Conference was constituted by the Government they told me very clearly that no "minority" or "majority" question would arise. I was told "they will simply discuss matters with you, and the mere numerical strength of the Delegates on one side or the other will not have a decisive effect in matter at issue."

Chairman: If you do not like the word "majority," shall we say "most of the Delegates," because that would not pre-judge this question?

Tharrawaddy U Pu: I beg to ask Your Lordship to define it clearly. Where the question arises of describing the Burmese Delegates, I beg to ask you to be pleased to say "Burmese Delegates," for instance, or: "the Burman Delegates representing the Burmese people of Burma"; or, if you use the word "majority," then you may call it: "the majority group," but not necessarily a majority of the Delegates. You may say "majority group"—that is, the Burmese group representing the Burmans of Burma, whereas, when you refer to my friends on the other side who are representing the minorities you use the word "minorities." If there are minorities there must be a majority.

Chairman: *Tharrawaddy U Pu*, this Report is very largely for the instruction of the Government, and we want to make it as intelligible to the Government as we can. If we adopted your suggestion the Government might get rather confused.

Tharrawaddy U Pu. Then we must raise a strong protest against the manner in which the Delegates have been chosen. To represent the Burman point of view we have only 12 Delegates, whereas to represent about two million people you have 15.

Chairman: Please do not let us have that discussion here. If you like to raise that at a later stage, there it is; I have nothing to say.

Tharrawaddy U Pu: I will raise this at the Plenary Session, too.

Chairman: Do not raise it also now. Raise it at the Plenary meeting if you like.

Tharrawaddy U Pu: But I beg to ask Your Lordship very strongly to be pleased to differentiate between the minorities and the majority.

Chairman: It is beyond my capacity. I cannot do that.

Tharrawaddy U Pu: Then why not use "Burmese group" for the twelve members here? Cannot Your Lordship use the words "Burmese Delegates" in place of "some Delegates"?

Chairman: When you have finished I will say what I have to say on that point.

Tharrawaddy U Pu: In some places I think Your Lordship has used those words.

Chairman: I am perfectly ready to answer your question now if you wish it. You have put me a question, and I am prepared to answer it.

Tharrawaddy U Pu: I will wait and listen to Your Lordship's views.

Chairman: I think it is rather irregular, because Mr. Ohn Ghine has possession and you have started a totally different point.

Mr. Ohn Ghine: I was raising a point on paragraph 5. I think it would meet Tharrawaddy U Pu, and it would certainly satisfy me, if it could be stated in connection with this that the Delegates representing the majority interests do not accept the view stated in this paragraph, and I was asking you, My Lord, whether we can, at this stage, state our views in connection with the Shan States, or whether we must wait till a later stage, because we have not so far stated exactly what our views are.

Lord Winterton: I see great objection to that. This is not a trades union congress, where people have what is known as card votes. We sit round this table as Delegates. All have an equal status, except the members of the Government delegation, who have a superior status. I object to the terms "minority" and "majority." With regard to what Tharrawaddy U Pu said, that is for the Prime Minister. Let him tell the Prime Minister, when he comes to address us, what he thinks about the representation, but let us leave it over till then.

Tharrawaddy U Pu: The Prime Minister will speak at the last moment, and there will be no chance for any Delegates to state their views.

Lord Winterton: The Prime Minister is coming here to see us, and let Tharrawaddy U Pu object then if he wants to object. In the meantime, let us regard ourselves as all equal round this table, and not refer to each other in the Report as "majority Delegates" or "minority Delegates." I claim to represent 70,000 people at this Conference—70,000 British people—and my friend Mr. Wardlaw-Milne

claims to represent so many, and Mr. Isaac Foot, so many more. If we are going to enter into the question of "minority" and "majority" Delegates we shall get into a hopeless position. I suggest that we should avoid any such references at all, and I am sure that the Prime Minister will be prepared to deal with Tharrawaddy U Pu's point.

U Ba Pe: This Report is intended to submit to the Government the views that have been expressed. The idea is that the Government should know the full and actual facts. As the Report is drafted, the expressions used will mislead the Government. What is the use of an expression like "a group of Delegates," or "some Delegates," or "several Delegates"? What is "a group"? It will leave on the mind of the reader, who is not acquainted with the detailed discussion which has been going on here from day to day, a wrong impression. He will jump to the conclusion that "a group of Delegates" means only two or three. As a matter of fact, when I speak on behalf of the group it is twelve in number. That is quite a different thing. The impression left on the mind of the reader who has no detailed knowledge of the Conference will be quite wrong.

Sir O. de Glanville: Is U Ba Pe right when he implies that the records of our discussions and proceedings will not be forwarded to the Government?

Tharrawaddy U Pu: Will be forwarded, Sir.

Sir O. de Glanville: I thought he implied that the Government would only read the Report, and would not know what has happened. That seems to be rather absurd.

Lord Mersey: Would it be sufficient if you add that considerable objection was expressed to this proposal?

Chairman: I want to say a word or two on the general point. I carefully considered, before presenting this Report, whether it would be possible to state individually the expressions of opinion; to state whether opinions expressed were those of individuals or groups. I am very familiar with the point because it was discussed before some of the reports were drawn up at the Indian Conference. We came to the conclusion that it was a most inadvisable thing to do. In the first place it would be quite impossible to begin by assessing the importance of the different Delegates—as to whether they were representing majority or minority interests. We had far more troublesome questions to deal with on this point in the Indian Conference than have arisen here, because we had always, what I perhaps might call the great standing army of Hindus and Muslims constantly expressing their opinions. We deliberately abstained from naming them. If I adopted the view of Tharrawaddy U Pu, I should have to state in the Report that these were the opinions expressed on behalf of the majority or expressed on behalf of a certain minority, and every minority would have the right to say that these were their views and so on. I considered this matter carefully and I came to the conclusion that, on the whole, it would be better not to do that, both for the sake of clearness and, also in order to avoid the presentation of a Report which would be made almost ridiculous by the constant mention of names of those who had expressed varying opinions. I thought it would be better to set out the Report in the form that the majority of the

Delegates agreed on certain points. Of course if it is said that there was not substantial agreement on the part of the majority of Delegates that is another matter. I do want to lay stress on this point because we want to get before the Government the number of important matters on which we had some measure of agreement. That is what they want to know and that is really the thing that will help them. I think it would be really a great pity if we were to put in the Report all the different names of Delegates and the different views of majorities and minorities.

Tharrawaddy U Pu: It is stated in this Report, in the case of the Indian Delegates, that Indian opinion was so-and-so, and that, in the case of the British community, that British opinion was so-and-so. We are considering the future constitution of Burma. It is admitted that we are in the majority. We represent 12,000,000 people. If U Ba Pe speaking on behalf of the 12 Delegates representing Burmese views puts forward certain opinions I do not see any reason why Your Lordship cannot say in the Report that U Ba Pe spoke on behalf of 12 Delegates representing the Burmese view. Why cannot Your Lordship say that? If you say that, I am sure that the minorities will be reasonable enough to allow that statement to pass. They have been referred to in the Report as Indian views or British views. We want only to let the Government know clearly what Burmese opinion is in respect of the points raised at this Conference. That is our simple and very reasonable request. I do not want to press Your Lordship to say that a particular opinion was a majority one or a minority one.

Lord Lothian: Might I suggest that we should follow here the procedure actually adopted in the case of the Indian Conference, which was worked out after a good deal of discussion, and did prove to be a solution of what is really a very difficult question. As the Chairman has said, if every opinion in this Report is to have names attached to it, and groups associated with it, we shall be here endlessly. This Report is a statement of opinions expressed on the merits of the question. At the Plenary Session an opportunity will be given, if we follow the Indian precedent, for each Delegate to express in his own name, or on behalf of those he represents, what are his views on the Report, and this will be done for the purposes of the record. In the document which contains the Reports of the Indian Round Table Conference there is also included a Report of the Discussions in the final Plenary Session. If any Delegate or body of Delegates wish to record disagreement with any particular opinion, that will be an opportunity, and it will go on the record.

Major Graham Pole: With regard to the point made by Tharrawaddy U Pu, I should like to point out that the phrase does occur on page 8 of the Report in the last paragraph where it is said, "on behalf of the Indian community it was pointed out," etc., and again on page 11, "in the case of the Karens there appeared to be no unanimity in favour of separate electorates." We might possibly alter these later on.

Chairman: That is different. That was expressly done to avoid the statement of names. Let me put the position in general. Suppose there is a large measure of agreement on a particular point, then

we have to state that not only did certain Delegates from Burma dissent, but also that other parties were divided on the subject, and to give the nature of their divisions. If you set yourself to draft a Report on that basis you will find it practically impossible. There is one further point on the question of the majority. Take paragraph 7. There it is stated that the majority view was that the Second Chamber should be called the Senate. Are you going to quarrel with a statement of that kind?

U Ba Pe: The point I have made is not quite appreciated by Your Lordship and some other members. The Report shows that the opinions of the minorities are given, but there is no specific mention of the Burmese opinion throughout the Report. Instead of that we have the words "a Delegate states." On some occasions I was speaking for myself, and on other occasions on behalf of all my friends, and what I said was opposed by members sitting elsewhere, but the view which I gave as a representative is put forward under that misleading phrase "a Delegate states." The conclusions which will be drawn from such a Report will be quite erroneous as to the measure of opinion in this Conference.

Mr. Wardlaw-Milne: That could be put right by some statement to the effect that the Burman opinion was of such and such a character.

Lord Winterton: The Conference is getting itself into a dilemma. I would like to put the points rather clearly, if I can. You reach agreement on a point—*cadit quæstio*. You do not reach agreement; there are only two ways of stating that you do not reach agreement. You can say: "No agreement was reached on such and such a point." You can say: "The majority was in favour of a certain view and the minority of another." Objection is taken to the use of the words "majority" and "minority." Personally those are the only words which would commend themselves to me. For reasons suggested by the Chairman, I think it would make the Report altogether cumbersome and indeed it would make it almost impossible for the ordinary person to read, if you are going to state of whom the majority was composed and the authority they had from those who had sent them here. It would make the Report of such a dull character that I think nobody outside this room would read it.

Therefore, there are only two alternatives: Either you have to say: "No agreement was reached," or you have to say: "One part of the Conference, the majority, was in favour, and another part of the Conference, the minority, was opposed." I think it is better to say that the majority was in favour, or to say that no agreement was reached, in which case I think Parliament will not be favourably impressed by the conclusions of this Conference. If you want Parliament to realise that we have reached some useful conclusions, you must say so. Of course, you can say no agreement was reached, in which case when you come to look at the end, you will find that after all the weeks of discussion we have signally failed to reach agreement on important points—because it must be admitted that we have failed to reach agreement on only a comparatively few points. If you want to state that in all its blank nakedness, it is open to the Conference to do so, but you will not favourably impress public opinion or Parliament.

Tharrawaddy U Pu: We are pressing this point about the word "majority." We are simply pressing "Burmese opinion is so-and-so." That should be stated in order to let His Majesty's Government and the Members of Parliament know what the views of the Burmans of Burma are on each and every point raised here. That is what we are asking, My Lord. Now, we have made it definitely clear in the course of the discussions. For instance, sometimes U Ba Pe got up and said: "I am now speaking on behalf of my friends the Burman Delegates who number twelve." That is very clear. In that case you may very well say that the "Burmese view on this point is so-and-so." Sometimes my friend U Chit Hlaing spoke, and sometimes I spoke on behalf of the twelve. In such cases, you might be pleased to say that "Burman opinion on these points was so-and-so," so that His Majesty's Government and Members of Parliament may be in possession of the opinion of the Burmese people on these various points. That is the only request I make. I am not asking you to say that the majority view is so-and-so; that would be rather misleading. Therefore, I am not asking you to use the word "majority," but to say: "the Burmese opinion is so-and-so."

Lord Winterton: May I ask Tharrawaddy U Pu one question before he sits down? I do not say I accept his suggestion. It is not for me to do so; it is for the Chairman. This is a perfectly friendly question: Assuming that is done, would he also agree to the words being put in: "and British opinion is so-and-so?"

Tharrawaddy U Pu: Yes, very well: "British opinion is so-and-so; Indian opinion is so-and-so." Very well.

Chairman: But I have not agreed to that.

Tharrawaddy U Pu: As Your Lordship pleases.

Sir O. de Glanville: My Lord, I wish to say that we on our side do not admit that our friends over here are the sole representatives of Burmese opinion. I represent Burman opinion, and so does every Delegate on this side. Burmese opinion is not solely represented by the twelve on my right.

U Aung Thin: With regard to Sir Oscar's statement, I do say that I and my friends here represent Burmese opinion, and I am as much Burmese as anybody on the other side. I challenge anybody to deny that, and if the description of Burmese opinion which has been suggested is accepted, you exclude us.

Tharrawaddy U Pu: But you are also Muslim.

U Aung Thin: That is quite right. The best way is to follow the lines laid down by Lord Winterton and also the method adopted in the Report.

U Ni: There is one thing which I wish to say, and I was thinking of saying it just before Sir Oscar got up. This phrase "all Burmese Delegates representing majority interests" is a phrase which has been used already in the Committee stage, and there is no challenge whatever of that anywhere. If only we had been met with this opposition at the time we could have explained to the Conference what it all meant, but now, having allowed this particular phrase, which really means only what it says, during all the time of the discussion, objection is raised, and as my friend Tharrawaddy U Pu has already said,

it does not mean that it is a majority view. It is a view held by a certain set of Burmese Delegates, and this phrase has already been used and allowed. It is not a new phrase which has just been brought up; it has been used in our joint statement. Your Lordship will see that this particular phrase has been used, and no challenge whatever has come from that side.

U Aung Thin: In reply to U Ni and others I do say that the expressions now selected or chosen by the group on the other side are not really agreeable to us, for the simple reason that they do throw some reflection upon us, as if we were not here as well to do what we can in the best interests of Burma.

Mr. Campagnac: May I suggest that we proceed to consider the Report paragraph by paragraph, and when we come to a case where U Ba Pe or anyone else says he was speaking on behalf of the Burmese Delegates it might be mentioned that one Delegate was speaking on behalf of twelve Delegates. When he was doing that he might be allowed to point that out.

U Ba Pe: That is reasonable.

Chairman: I think it is a little inconvenient in many ways.

Mr. Kim Seing: I fully endorse the remarks just made by my friend U Aung Thin and I say I am as much a Burman as anyone of my friends on the other side, in every mode of life.

Mr. Haji: I object to the suggestion of U Ba Pe that, whenever he spoke on behalf of the twelve that point should be mentioned by using some such phrase as "the Delegate, speaking on behalf of the twelve Delegates," because there were occasions in the discussion of the High Court when some of us did not speak because U Ba Pe was giving utterance to suggestions which we also shared, and it would be very unfair to us to say at this stage that U Ba Pe said something on behalf of twelve Delegates, that he was speaking not on behalf of us but only on behalf of his own people. It would be a most inconvenient course to adopt if every time that U Ba Pe said something it was going to be on behalf of majority or minority interests. We want our place in the deliberations. It is not merely as U Ba Pe says, that it is rather hard on him that he got up and said one thing and he was opposed by two on the other side, but what about those examples where none of the people spoke at all because he was giving utterance to matters on which we all agreed?

Mr. Isaac Foot: The whole Conference agreed.

Mr. Haji: That is exactly my point. If all those points are going to be mentioned in detail, as the Chairman said, you would not have a Report, you would have a repetition of the whole of the deliberations. With reference to Tharrawaddy U Pu's point that reference has been made by the Chairman to the communities, if he examines the Report he will find that the Karens and other communities are mentioned because they were being discussed under the heading of minorities. That was inevitable. I do not think the communal expressions are used anywhere except where absolutely essential, and I do think that whatever the pressure may be from one side or the other, you should not allow yourself to change the method which you have adopted, and of which we very heartily approve.

Mr. Isaac Foot: My Lord, could not the case be covered in this way? I understand that U Ba Pe and his friends are anxious that on the records there shall be the expression of what they believe to be the majority opinion in Burma; but already we have in the initial speeches the statement made by U Ba Pe and the statement made by Tharrawaddy U Pu. That is upon record. Those speeches are there, and are, I suppose, as much a part of our proceedings as the document which we are considering now.

Chairman: Yes.

Tharrawaddy U Pu: But they will not be readily referred to.

Mr. Isaac Foot: They will be on record and will be an essential part of the record. When the Plenary Session is held I assume that U Ba Pe, who is in a particular sense the spokesman of his party in the Burmese interest, will again speak and it will be again put upon record that in the constitution of this Round Table Conference he is one of a party of twelve Delegates representing, as they believe, the overwhelming majority of Burmese political opinion. It is perfectly open for him to make that statement and have it put on the record. Will that not be sufficient?

Tharrawaddy U Pu: No.

Mr. Isaac Foot: Will not the initial speeches at the opening of the Conference and the speeches to be made at the closing Plenary Session be sufficient to inform the Government and those who have to study this Report? I can quite understand that it would be misleading to anyone reading the Report to have a statement put before him as the opinion of U Ba Pe as one Delegate when as a matter of fact he is here in a representative capacity, and a very important representative capacity, and in some instances was commissioned to put the case for his colleagues. If I may be allowed to say so, I might add that he always put that case with great force and ability. If that is on record, together with the initial speeches and the final speeches which will be made at the Plenary Session, I do not think anyone will be misled when he comes to read this Report.

U Ni: Would it meet the point if you used the words "The Burmese Delegates who claim to represent majority interests"?

Chairman: Do you mean to say that every time reference is made to an expression of opinion, I have to insert in the Report all that phrase? Really, I could not be responsible for such a Report. It would be rather absurd.

U Ni: Not in every place.

Chairman: You must have a certain amount of economy of words in the phrases you use. This has been raised rather as a general discussion and a general discussion is always a very difficult one. Cannot we get along now with each paragraph and then I dare say we could agree upon some form—

Tharrawaddy U Pu: The same question will crop up again and again.

Chairman: If I may be allowed to finish my sentence, I was going to say that I think we might easily agree on a form of words which might meet the point that has been raised. If you have to attach to

every opinion expressed the names of the members of the Conference who expressed the opinions I think I would let somebody else draw up the report. It would be a ludicrous document.

Mr. Wardlaw-Milne: May I say that I should strongly object to the words which have been suggested by U Ni. In many cases, statements were made from both sides in which every member of the Conference agreed. I do not want to be excluded from some statements which U Ba Pe made with which I was altogether in agreement. On the other hand, it will be within the knowledge of the members of the Conference that it is not the case that all the statements he made were accepted by all the twelve Delegates. That is not surprising. It is not in human nature always to agree and they are human beings like the rest of us. Therefore I think that it would be invidious and, in fact, misleading to make a statement of the kind suggested. I think the only way in which the matter can be dealt with satisfactorily is to carry on paragraph by paragraph.

Chairman: I do not think we can deal with it as a general proposition.

Tharrawaddy U Pu: Then Your Lordship will have to deal with it at every place where this question crops up, which is in almost every paragraph of the Report.

Chairman: I think we are capable of dealing with things separately when we reach them without raising what are really general discussions. Anyhow, we will try. Tharrawaddy U Pu has raised this point very clearly, but at the present moment we are on a more limited question, that set out in paragraph 4, and there Mr. Ohn Ghine raises the contention that the opening of paragraph 5, "on this basis it was accepted by the Committee," etc., is not correct. He says it was not accepted by the Committee. Is that the point?

Mr. Ohn Ghine: Yes.

Mr. Campagnac: I might point out that that would be contrary to the statement U Ba Pe made just now.

Mr. Harper: I think paragraph 5 is correct. Is it not almost statement of fact, that on the particular basis described there would be no advantage? What is not accepted is the basis.

U Su: Could we state that, "there can be no advantage for the Chiefs of the Shan States"? Perhaps there might be some advantage for the masses of the Shan States.

Chairman: Then may we phrase it in this form, that "On this basis many members of the Committee felt"?

U Ba Pe: It should be stated that there were some members who are not in agreement with this statement.

Chairman: Perhaps we could have it in this form:

"On this basis the view was taken by some members of the Committee, that," etc.

The great difficulty in all this is not to repeat the same phrase over and over again. That is a matter of drafting. Perhaps you will allow some latitude with regard to the exact phrasing. Here you do not want it to be stated that it was generally accepted by the Committee.

“ there can be no advantage in the Shan States taking a direct part in the government of Burma proper nor in having any representation in the Legislature of Burma.”

Then, I think, after that comes in that sentence about the Sawbwas. I think we have dealt with that, that the possibility should not be excluded. Then am I wrong in paragraph 6 in saying: “ There was unanimous agreement upon the desirability of a Second Chamber ”?

U Maung Gye: Before we pass on, My Lord, the view has been expressed that, while Burma does not want to interfere with the internal administration of the Shan States, it wants to be restored to the position it occupied in the olden days, that is to say, the position of a paramount power in relation to the Shan States. That view has not been stated anywhere.

Chairman: Well, that I think is a completely new view, is it not, to which no reference was made at all in the discussion?

U Maung Gye: Unless I am mistaken I believe I stated that.

Tharrawaddy U Pu: I also stated that.

Chairman: My difficulty is that I do not remember any statement of that kind: that Burma ought to be restored to the paramount position it had over the Shan States. In order to save time, will you let me have that looked up, and we can refer to it again? I think that is the best plan.

U Ni: And at the present time this point may be noted.

Chairman: Yes, we will note it. I will have it looked up. Of course, I should have thought it a matter for discussion at the Plenary Conference; it makes a good point in a speech.

Tharrawaddy U Pu: Something in black and white should be in the Report.

Chairman: Very well: we will have it looked up. I think you will agree that if no reference was made about it at all, it was rather difficult to put it.

Tharrawaddy U Pu: Quite so; but I said it.

Chairman: Now can we get on to paragraph 6? It says “ unanimous agreement.” I hope there was unanimous agreement on that point.

U Ba Pe: In paragraph 6 it says:

“ though some Delegates considered that the usefulness of the Chamber,”

and so on. I do not know to whom you are referring when you say “ some delegates,” because this statement was made by twelve of us on this side.

Mr. Wardlaw-Milne: You are “ some,” are you not?

U Ba Pe: Yes. “ Some ” may mean two or three; but nearly half the Conference made that statement and you say “ some.” My friend Hoe Kim Seing is also a Burman and my friend Sir Oscar de Glanville also claims to be a Burman. I do not know whether they are also in agreement with this—I think they are—in which case this is the majority view.

Chairman: There again we get into such trouble if on each occasion we have to try to remember which particular Delegate supported certain views. "Some" is a word of number; it represents more than one. I do not see the point of it. Do you mean to say we should meticulously record the exact number of people who on each point expressed a particular view?

U Ba Pe: In this case it is a considerable proportion of the Delegates, not merely some.

Tharrawaddy U Pu: It is the majority—a large number.

Chairman: "Many."

U Chit Hlaing: That ought to satisfy both sides.

Chairman: I do not want to have to write a separate Report for myself explaining that in the Report I had to express all those different numbers. I do not think it will conduce to clearness, but of course we can put it: "though many Delegates," if you like. Do not count heads too closely.

Tharrawaddy U Pu: Do not count?

Chairman: Not too closely.

U Ba Pe: The point is not counting the heads; the point is; what is the general feeling of the members? Our impression is that when we made this statement it was shared by my friends the Karens, as well as U Aung Thin, and, I think, Mr. Haji.

Chairman: Would "many Delegates" suit you?

Sir O. de Glanville: We do not admit the statements as to what our views on this side were. Nobody on this side expressed the view that the usefulness of the Second Chamber depends upon the grant to Burma of full responsible government. The Report is perfectly correct as a record of the facts that happened.

Chairman: Then we will insert "many"—a word of number—"many Delegates."

U Ba Pe: And the next word on the same line, "usefulness," I think should be replaced by the word "necessity."

Chairman: "... though some Delegates considered that the need for a Second Chamber depended on the grant to Burma," and so on.

Mr. Wardlaw-Milne: I do not think any such view was expressed at all. I venture to say, My Lord, that the view was never expressed that a Second Chamber was not of any value unless Burma had full responsible self-government.

U Ba Pe: I said so.

Mr. Wardlaw-Milne: I do not recollect that that was generally accepted by the Conference. I think it was expressed quite clearly as stated here, that its usefulness would depend to some extent upon that.

U Ba Pe: What I said was the necessity. I will say nothing about the value as far as we are concerned. I said that the necessity of a Second Chamber is only admitted if the country is going to enjoy a full measure of reforms.

Mr. Wardlaw-Milne: Yes, but full responsible self-government is a different thing from a full measure of reforms.

Tharrawaddy U Pu: He meant full responsible self-government.

Mr. Wardlaw-Milne: He may have meant it, but he did not say it.

Mr. Harper: If that is going to be altered to "need" I think we come back to "some" again instead of "many," do we not?

Chairman: "... though some Delegates considered that the usefulness of the Chamber depended on the grant to Burma of full responsible self-government"—is there really any serious difference between that and "the need of a Second Chamber depended on the grant"? I think it is hardly worth disturbing, is it?

Major Graham Pole: If it is not useful there is no necessity for it.

Chairman: I am not quite sure whether I understand what "the necessity of a Second Chamber depending upon the grant" means. Anyhow, I think that will meet you, will it not?

Then on paragraph 7, is there any doubt about that?

U Ba Pe: On paragraph 7, I do not know whether it will come in here or later, but I should like to know whether we could add "or the alternative of the Burmese equivalent of 'Senate.'"

Chairman: Do you want to put it in the statute? It would puzzle the Members of Parliament. I do not think that is really necessary, because you can, of course, call it by your own name.

Now paragraph 8.

U Ba Pe: Here again we have "Several Delegates."

Chairman: Do you want "many"?

Tharrawaddy U Pu: This is the Burmese view.

Chairman: You know, you are always putting me into that difficulty. I think I should be unconstitutional as Chairman and not doing my duty if, having all these gentlemen brought together from Burma and elsewhere, I were deliberately to say that in my opinion certain Delegates were more Burmese Delegates than others. I do not think I am really justified in that.

Tharrawaddy U Pu: Your Lordship is considering the case of Burma, not the case of India. You have to consider Burma. When you consider the case of Burma, those in authority would like to know the Burmese views about Burma.

Chairman: I think they know them, may I say, very well; but that is not quite the point, *Tharrawaddy U Pu*. Here is a Conference, which is composed in a way that it is not for me to criticise, condemn, or even discuss. That is not my business. I am here to preside over this Conference. You are asking me to say that some of these gentlemen who come from Burma represent, in a special way, Burma or Burmese opinion.

Tharrawaddy U Pu: Not Burma.

Chairman: Burma or Burmese opinion. I think that you are asking from me more than you ought to ask from a chairman. I think I should be acting wrongly and unfairly in saying that. There are gentlemen on the other side who consider that they represent Burma.

just as much as other Delegates. I cannot specifically say that one particular group of Delegates in the Conference represent Burma in a special way different from that of others. I think you are really asking more than a chairman can do.

Tharrawaddy U Pu: With all respect to Your Lordship I beg to differ. You are considering the case of Burma and I think Burmese views ought to be made known to those in authority. If your Lordship is not pleased to help us by saying that these were the Burmese views it would be adding insult to injury which has already been done to us by the Government in selecting Delegates from Burma. We represent the vast majority of the Burmese people and we have only twelve Delegates here, whereas the other side also have twelve Delegates to represent minorities of two, three or four millions. Great injustice has been done to us.

Chairman: A great injustice has been done to you? In what way.

Tharrawaddy U Pu: As Burmans.

Chairman: How?

Tharrawaddy U Pu: By the Government.

Chairman: I cannot go into that.

Tharrawaddy U Pu: With great respect, the Government having done that great injustice, if you do not accede to our reasonable request to merely mention Burmese opinion I submit that will be adding insult to injury. My request is a very simple and most reasonable one and there is no reason why my friends Sir Oscar de Glanville, U Aung Thin and Mr. Kim Seing should object to it. They do not come here to represent Burmese opinion.

Sir O. de Glanville: I dispute that. We were specifically appointed to represent the views of the Burmese in Burma. I am not here to represent the Europeans only. We were appointed to represent Burmese opinion and in addition to that U Aung Thin was also asked to represent the Burma Muslims and Mr. Kim Seing was asked to represent the Chinese. That was made perfectly clear, but we all represent Burma.

U Aung Thin: I should also like to make it clear that we are here as Delegates from Burma. I am here as a Delegate of the Independent Party representing Burma, although by special request I was asked to represent the views of the Burma Muslims.

Tharrawaddy U Pu: It cannot be said that these three gentlemen have represented the views of Burma. Sir Oscar de Glanville has made certain claims on behalf of the British community and U Aung Thin made claims on behalf of the Muslims and Mr. Kim Seing on behalf of the Chinese community. They cannot claim that they speak on behalf of the Burmese community as a whole.

U Aung Thin: If we are not as eloquent as Tharrawaddy U Pu, I, for my own part, am quite content to follow my leader, Sir Oscar de Glanville.

Lord Winterton: May I say that this discussion is having a most unfortunate effect on my mind. I am sure that Tharrawaddy U Pu would not like me to say in Parliament, or at a later session of this Conference, when the Prime Minister makes his promised speech that there was such confusion of thought among those who came from Burma as to what Burma was, and who represented it, that I was

bound strongly to advise that no self-government should be conferred on the country at all. Let me say that you are making the worst possible impression on British Public opinion by this quite unnecessary dispute as to whom you represent and whom your colleagues represent. I beg of you to accept the Chairman's suggestion to avoid the use of terms obviously regarded as wounding by Sir Oscar de Glanville, by the gentlemen representing the Indian community, and by others. By discussing this matter in the way you have done you are giving the impression that you are so divided in Burma—

U Maung Gyee: We are not.

Tharrawaddy U Pu: That is not true.

Lord Winterton: Then do not give the impression that you are so divided. You are giving the impression that you are so divided that you are not fit for self-government.

U Chit Hlaing: I withdraw from this Conference as a protest against the expressions used by Lord Winterton.

(U Chit Hlaing then withdrew from the Committee.)

Chairman: On paragraph 7, which deals with the name of the Chamber, I think there is no criticism. Paragraph 8 has to do with the powers of the Chamber.

U Ba Pe: I would suggest that it should read: "many Delegates," instead of "several Delegates."

Sir O. de Glanville: What is the difference between the words "some," "many," and "several"? A little explanatory note might be desirable.

Chairman: You are asking me more difficult questions to-day than you have done during the whole of the Conference.

Sir O. de Glanville: I am trying to support Your Lordship.

Mr. Haji: I support the word "several," if in the next sentence we could have the words read: "another opinion strongly urged by other Delegates was," etc.

Mr. Wardlaw-Milne: Why not simply "strongly urged"?

Chairman: Do you mean that it was a strong opinion or that it was strongly urged? There is a distinction between the two things.

Mr. Haji: I would make it "another opinion strongly urged."

Chairman: Yes, but do you want me to put in epithets? You will be in great difficulty. I could not put in: "another weak opinion." If I have to put in "another strong opinion," "another vehement opinion," "another enthusiastic opinion," I am trying to get at it now from the point of view of those who will be studying and reading the Report, which is the Government. Will they be very much helped by that, Mr. Haji? That is what I want to put to you.

Mr. Haji: I thought it was bad enough to have "another opinion" after "several Delegates"; but now that you are changing "several" into "many" I do feel the second sentence reads very, very weak, if I may say so, as compared with the first.

Chairman: Shall we have: "an opinion was expressed by other Delegates"? Will that meet you?

Major Graham Pole: Was it expressed by more than one?

Mr. Haji: It does not mean that each time 50 people have to speak to support a proposal.

Chairman: You mean to say that if the opinion was expressed by one delegate, it adds force to it to say that that opinion was strongly expressed?

Mr. Haji: No, Sir. I just hear my friend over there saying he supports my view which was strongly urged, and I am told Mr. Howison and Sir Oscar also support the view.

Mr. Cowasjee: Shall we add another word and say "many Delegates"? That will put this on the same footing as the previous sentence.

Sir O. de Glanville: I think it will be more in accordance with what happened if we reverse these two sentences and start it off with: "many" or "several Delegates considered that the Senate should have equal powers with the Lower House," etc.; then put that another opinion was about the Irish Free State; because certainly the majority view was not in favour of the Irish Free State situation.

U Ba Pe: No; what Sir Oscar has said is not quite correct.

Chairman: Well, I have not accepted it.

U Ba Pe: I want to explain it.

Chairman: Say what you want.

U Ba Pe: The Irish Constitution was followed by twelve of us here. Excluding the Shan Chiefs, you have nine left, and their opinions were divided among them.

Sir O. de Glanville: No, no.

Mr. Wardlaw-Milne: I object very strongly to this "nine" business. There is no question of "nine."

Mr. Haji: I suppose British Delegates do not count.

U Ba Pe: I am not talking about the British Delegates; I am talking about the Delegates from Burma.

Mr. Haji: Why draw this distinction?

U Ba Pe: I mean there was difference of opinion.

Chairman: Would it do to say: "The opinion was expressed by other Delegates that the Senate should have equal powers"? It is difficult to state the exact opinion in numbers.

Delegates: Yes.

Chairman: I think that finishes 8; now 9.

U Ni: As regards paragraph 9, it looks as if the numbers 30 and 60 were expressed by the members of the Conference; but I find, as a matter of fact that 60 is the number adhered to by most of us, though 30 was expressed.

Mr. Wardlaw-Milne: But I would point out that there is nothing here contrary to that opinion. It simply says that that was what was said.

U Ni: Yes, but it may give some idea of the numbers of the Upper House; that is all.

Major Graham Pole: Is not the answer to that really that to find out how the views varied between 30 and 60, one would have to go back to the proceedings in Committee and see exactly what was stated and by whom.

U Ni: I quite agree.

Chairman: Is any other point suggested on 9? Then we will come to 10.

U Ba Pe: In paragraph 10 on page 4, in the second paragraph it says: "One group of the Burman Delegates"—I think that is not quite correct.

Mr. Wardlaw-Milne: I think it is bad. I think it would be better to say "certain Delegates."

U Ba Pe: In the last sentence of this paragraph it says: "One Delegate suggested," so-and-so. That was suggested by U Ni, I think.

Chairman: Was it one Delegate's proposal? Shall we say "one Delegate proposed"?

U Ba Pe: Yes, but later on he signed with us a joint statement adhering to the position in the first sentence there. He revised his opinion later on.

Chairman: Do you want to leave out that first sentence?

U Ba Pe: In that case "one group" will become "the Burman Delegates."

Mr. Wardlaw-Milne: No.

Mr. Cowasjee: Is it necessary to say "Burman"?

Chairman: Well, we get into the same discussion as we have had twice already—as I say, putting me into a very invidious and unpleasant position.

U Ba Pe: Without that it is meaningless, because out of twelve men only one said anything and eleven said nothing. It is as if there were two or three groups in the Burman Delegation. That is not so.

Chairman: "One group of the Burman Delegates proposed that 50 per cent." . . . "another group proposed that 50 per cent. should be elected by the Lower House and 50 per cent. nominated by the Governor." That you do not criticise, do you?

U Ba Pe: The word "one group" is misleading.

Chairman: In what sense misleading?

U Ba Pe: Because it refers to the opinion of eleven members here, not one group only.

Chairman: But a group means many, of course.

Mr. Isaac Foot: Could not we say "one proposal was"—simply putting it as a proposal?

U Ba Pe: It will minimise the importance of the opinion by saying "one group."

Chairman: Shall we say "a large group of Delegates"?

Mr. Wardlaw-Milne: I would suggest that in this case it would be much better, following the decision we have come to, if it is a decision—at any rate, the practice followed up to this point—to say that a number of Delegates, or a large number, or a considerable number of Delegates proposed; but I would avoid the use of the word “Burman” for the reason which the Chairman has expressed—the impossibility of his position. You can go on to say, “Others proposed that 50 per cent. should be elected by the Lower House and 50 per cent. nominated by the Governor, while one”—if it was only one—suggested something else.

Chairman: The precedence, in a sense, gives a sort of importance to the proposal, does it not? Then you gradually come down to “one Delegate.” Shall we say “A substantial number of Delegates”?

U Ba Pe: Yes, that is better.

Mr. Wardlaw-Milne: “A substantial number of Delegates proposed” and “others proposed.”

Major Graham Pole: Then do we take out the last sentence about “one Delegate”?

Chairman: We will let the last sentence stand, because no one can object to that?

Major Graham Pole: Except that U Ni withdrew from that later on, I think.

Chairman: This was Mr. Campagnac’s suggestion. U Ni is in the larger group, are you not?

U Ni: Yes; I would not mind this last sentence going out.

Chairman: I think that was your suggestion, Mr. Campagnac?

Mr. Campagnac: Yes.

Chairman: I do not want to go into exactly whose each suggestion was, but I believe that is so. Mr. Campagnac is under the humble pseudonym of “one Delegate.”

Sir O. de Glanville: Then are you altering this to “others proposed” instead of “another group”? I think that was practically the majority view of the Delegates.

Chairman: Others proposed. There was no great body of opinion. It was rather an interesting suggestion, that was all. You must give something to literary value.

Sir O. de Glanville: It was more than a group, My Lord.

Chairman: Then we will say “others proposed.”

Sir O. de Glanville: I think some of the British Delegates joined in that suggestion.

Chairman: Of course it is always difficult to give precise value to the body of opinion supporting a proposal. If we were writing the report in Greek we could do it better because the Greek language is more subtle, but it is very difficult in English. Then we come to paragraph 11.

U Ba Pe: On paragraph 10 I think there is an omission. The paragraph says:

“One group of the Burman Delegates proposed that 50 per cent. of the members should be directly elected on a territorial

basis, 25 per cent. elected by the Lower House from a panel of men of experience, and 25 per cent. nominated by the Governor acting with the Ministers for the purpose of explaining and supporting Government policy."

I think there should be added:—

"And also for the purpose of securing representation of minority interests not otherwise represented."

Chairman: The paragraph says: "25 per cent. nominated by the Governor acting with Ministers for the purpose of explaining and supporting Government policy," and you want to add what?

U Ba Pe: "For the purpose of securing representation of minority and special interests not otherwise represented."

Mr. Cowasjee: I do not think that is so.

U Ba Pe: That was our submission.

Chairman: You mean that that was stated in the Conference, do you?

U Ba Pe: Yes.

Chairman: We will have that looked up, but while that is being done I was going to suggest that perhaps it might be shortened by saying "and for the protection of minority interests." Would not that do?

U Ba Pe: "Minority and special interests."

Chairman: Not otherwise represented.

Mr. Harper: My recollection is that U Ba Pe was against nomination in any form.

Mr. Haji: I am afraid if you put in these words it will convey a wrong impression. I think we ought either to keep to your original wording or else you would have to put in something by way of explanation and say that the Burmese Delegates or some Burmese Delegates differed.

Tharrawaddy U Pu: You want to have that put in when you want it and not when you do not want it.

Mr. Haji: I think it would be better to leave it as it is drafted.

Chairman: May I make a general appeal? It is extraordinarily difficult for more than one person to draft a report and it is almost impossible when thirty persons are concerned. I think if Delegates would be content to call attention to errors or omissions of important matters we should get on much more quickly than if we try to nicely weigh up whether there were "other Delegates" or "many Delegates" in each case. It is an extraordinarily difficult thing to do, and I do not think honestly that it makes much difference to the whole effect of the Report in the minds of the Government. The Secretary has shown me the passage in the speech at page 74 and there is no mention there of these nominated members.

U Ba Pe: I mentioned it in another portion of my speech.

Chairman: We will make that amendment.

(The Committee adjourned at 1-20 p.m. and resumed at 2-45 p.m.)

Chairman: I think that before we adjourned this morning we disposed of paragraph 11. We come now to paragraph 12, dealing with direct and indirect election to the Second Chamber.

U Ba Pe: The last sentence of that paragraph states that opinion was divided, in the light of the figures supplied to the Committee, as to whether the method of direct election would be fair and practicable. My impression is that we did not make any criticism of the method of direct election to the Senate. Sir Oscar de Glanville pointed out that so far as direct election went, in Rangoon, the Europeans and Burmans would not be returned.

Mr. Cowasjee, I think, wanted more seats to be allotted to Rangoon Town; or alternatively, he wanted it on the basis of communal representation. That was all that was remarked.

Sir O. de Glanville: That is right.

Chairman: Yes, I think that is correct; because you remember those figures were supplied about the effect on the number of voters in the different constituencies, and we did not arrive on any general agreement on the point. I think that was so.

U Ba Pe: My impression is, there was no objection to the direct election.

Sir O. de Glanville: Yes, there was.

Chairman: I think there was.

Sir O. de Glanville: There was on the ground that it would not be fair or practicable. That is what I pointed out, as you have just mentioned.

U Maung Gye: So that your objection was confined to Rangoon Town.

Mr. Cowasjee: My Lord, there was my point. If the direct election were to apply, then there should be greater representation for Rangoon, on account of the fact that Rangoon is the seat of commerce and industry. I would wish that this aspect should be brought out in the Report.

Chairman:

“ Figures were supplied to the Committee indicating the distribution of voters in the various constituencies on the basis of thirty directly elected members on the qualification of the vote for the Indian Legislative Assembly.”

I do not think there was a general agreement, as far as I recollect, on the point as to whether it was possible. You remember those figures that were circulated?

U Ba Pe: Yes, I remember those.

Chairman: What is your proposal, U Ba Pe?

U Ba Pe: My suggestion is that there was no opposition to direct election.

Sir O. de Glanville: There was; we did not think it was practicable.

Chairman: I think as it is stated here it is not an objection to direct election so much as whether, in the light of the figures, it was practicable.

Sir O. de Glanville: Yes.

Chairman: That is what the sentence means, I think. In fact, I am sure that is what it means. You see there was a division of opinion, as stated in the first paragraph, between direct election and indirect election; and I think when the figures were supplied the critics rather stuck to their respective opinions. That was my impression.

U Maung Gyee: All that Sir Oscar de Glanville said was that direct election might not be fair as regards Rangoon Town.

Chairman: Well, that is getting into rather a detail, is it not?

U Maung Gyee: That was the place mentioned by Sir Oscar de Glanville.

Chairman: What are you suggesting as an alternative U Ba Pe?

U Maung Gyee: As to whether the method of direct election would be fair in the case of Rangoon Town.

Chairman: Can we get into such detail as that, do you think?

U Maung Gyee: He confined his objection to Rangoon Town.

Chairman: But undoubtedly in the general discussion at first there was a difference of opinion between those who supported a system of direct election and those who supported a system of indirect election. After that, you will remember, there was a second discussion when some figures were supplied. I thought that the objection in connection with Rangoon Town was pressed as an example rather than as the only case. It is rather difficult to know how to end it, because after the figures were supplied you cannot say that there was a general expression of opinion in favour of direct election: in fact, that the result of the supply of the figures was to alter the opinion expressed in the first part of the discussion. I do not think that was so. The words here are:

“Opinion was divided, in the light of these figures,”—
and then Mr. Wardlaw-Milne suggests—

“particularly for the town of Rangoon, as to whether the method of direct election would be fair and practicable.”

Mr. Cowasjee: In regard to the town of Rangoon the point was that if direct election was to apply, the town of Rangoon ought to have a larger number of candidates.

Mr. Wardlaw-Milne: That is the point—whether it was fair and practicable, particularly for the town of Rangoon. You cannot go into details, I think.

Lord Winterton: I think that is a fair compromise.

Mr. Harper: Mr. Howison, I am sorry to say, is absent from the Conference owing to serious illness. He spoke on this point on behalf of the Europeans, and if I remember rightly he did not favour direct election because it would not in his opinion have the effect of ensuring the representation of Europeans in the Legislature. I think he said he was not against either one form of election or the other in principle, but that as far as he could see he thought that the method of direct election would not be satisfactory. I think he definitely opposed it on that ground.

Chairman: Then I think with that amendment perhaps we can pass it.

Then paragraph 13.

If there is nothing on paragraph 13 we can go to paragraph 14.

Sir O. de Glanville: On paragraph 14, My Lord, I think the general opinion expressed was that there should be no nominated officials. That was the impression left on my mind, and, I think, on the minds of all the Delegates.

Chairman: We are dealing with the Second Chamber, of course.

Sir O. de Glanville: I know; and I think that the general opinion, as far as I remember it, was that we were rather opposed to nominated officials except those officials who attended on behalf of the Governor on reserved subjects, who would not be ordinary members of the House. As regards the 30 and 60, I think the general opinion was that if there was nomination half should be nominated, but they were not to be officials; officials should not be nominated. That was my own impression.

Mr. Wardlaw-Milne: Are you not mixing up the Second Chamber and the Legislature?

Sir O. de Glanville: I am dealing with the Second Chamber. The proposal was that half the members of the Upper Chamber should be nominated and the other half elected, and I think the general opinion was that all the nominated members of the Upper Chamber should be non-officials.

Lord Mersey: That would not preclude the Financial Adviser, for instance, who was able to speak in either House, from attending?

Sir O. de Glanville: Oh, no, not if he was a regular nominated member, and it would allow the Governor to send his officials when necessary.

Chairman: I have been given the speech of Mr. Howison, who said:

“ I still feel very strongly that the Upper House would lose very much if it did not have the services of experienced officials, especially during the first years of this reformed Legislature.”

Sir O. de Glanville: Yes; but I think he was practically unsupported, My Lord. I am merely giving my impression that the great majority of the Delegates from Burma, irrespective of which side they are from, were in favour of officials only attending, as I have already said, on special occasions, and that the ordinary nominated members should be non-officials.

Chairman: What do you propose as an amendment, then?

Sir O. de Glanville: I would like the paragraph altered to make it clear that it was generally agreed that the nominated members should be non-official but that it was also proposed—making this subsidiary point—that the nominated members should include officials.

Mr. Wardlaw-Milne: I speak with great diffidence on this point because I do not remember so clearly as Sir Oscar seems to remember the discussion on that point. I thought that after the point had been discussed it was rather left in the air, but that some members were rather in favour—in the early years at any rate—of officials being nominated to the Second Chamber.

Sir O. de Glanville: Yes, but I think the majority were in favour of the nominated members being non-official.

Chairman: Suppose we say "but the opinion of the greater number was that officials should not be eligible for selection for the nominated seats." Would that suit you?

Sir O. de Glanville: Yes.

Chairman: Then if there is nothing on paragraph 15, we will go on to paragraph 16.

Mr. Haji: The last sentence of paragraph 16 reads: .

"Others, while advocating a higher qualification, made no specific suggestions."

If I remember aright I suggested that we might have the existing Council of State qualification for the Senate, which qualification is much lower than that prevailing in other Provinces of India and gives as many as 20,000 electors. I made the suggestion that this existing qualification for Burma for election to the Council of State should be specifically accepted.

Major Graham Pole: But it was not specifically accepted.

Mr. Haji: No, but I suggested it. My point is that in place of the last sentence we might have some such sentence as this: "The existing Council of State qualification which is lower in Burma than that now prevailing in other Provinces of India should be adopted for election to the Upper House." You can say that one Delegate suggested it or that it was suggested.

Chairman: We might say: "The suggestion was made by one of the Delegates." Is there any objection to that?

Mr. Wardlaw-Milne: Would it meet Mr. Haji's point to say: "A higher qualification was suggested" without going into details.

Mr. Haji: It would be useful to mention this particular point.

U Ba Pe: The same remarks apply to the Assembly.

Chairman: The paragraph reads:—

"Some Delegates suggested the adoption of the qualifications which at present exist for the Indian Legislative Assembly." Then you want to say that one Delegate suggested the present qualification for the present Council of State.

Mr. Haji: For the Upper House.

Chairman: That would be obvious. For the Upper House.

Mr. Haji: That would meet the point. The present qualification as obtaining in Burma, not in other parts of India.

Chairman: Yes, the present qualification in Burma for election to the Council of State. That is the correct form.

U Ba Pe: There is one more point on paragraph 16. There it is said that: "Some Delegates suggested the adoption of the qualifications which at present exist for the Indian Legislative Assembly." The expression "Some Delegates" refers to us. That is what we suggested. It was further suggested at that time by me that, in addition to Indian Legislative Assembly qualifications, past and present Presidents of Municipalities and District Councils should be eligible.

Chairman: You would run that on with the same sentence? Is there any objection to that? What we are discussing are the qualifications for electors.

U Ba Pe : For both candidates and electors.

Chairman : The qualifications for candidates come in the next paragraph. In that paragraph (No. 17) it is stated that some Delegates favoured as a qualification the holding of responsible posts. I think the intention was to cover all those who held such posts.

U Ba Pe : I do not know whether you would include the past and present Presidents of Municipalities and District Councils in that category.

Chairman : I do not know. There is no harm in specifying them.

U Ba Pe : That will come after the sentence referring to the Indian Legislative Assembly.

Chairman : It will read something like this : " Some Delegates favoured the present qualifications of candidates for the Indian Legislative Assembly, with the addition of past and present Presidents of the Municipalities and District Councils."

Lord Mersey : Is disqualification mentioned in this paragraph about qualifications? My point was with regard to Government contractors.

Chairman : I do not think disqualifications are mentioned there.

Lord Mersey : They are mentioned in the case of the Legislative Assembly, and if mentioned in the one place they should surely appear in the other.

Chairman : I think we have not got a paragraph about disqualifications.

Sir O. de Glanville : Government contractors at present are not disqualified, but any member of the Legislature who wants to take up a Government contract has to obtain the special permission of Government. If he is a contractor who ordinarily takes Government contracts he is not disqualified. We have several in the Legislature.

Lord Mersey : I beg your pardon; I find paragraph 34 covers both.

Chairman : Then paragraphs 18 and 19.

Mr. Harper : My Lord, with regard to paragraph 19, was not there also a suggestion that casual vacancies should be filled by the Governor?

Chairman :

" Casual vacancies. The question of the method of filling casual vacancies was not generally discussed, but a suggestion was made that they should be filled by whatever method had been employed in the case of the previous holder of the seat."

Mr. Harper : I cannot find the reference to it but I have that in my memory.

Chairman : You mean they should all be filled, whether they were nominated or whether they were elected, by the Governor; is that so?

Mr. Harper : That is my recollection, for the balance of the period of office of the man who has vacated.

Chairman : It might be convenient if they were elected by the Lower Chamber, that is to say the House of Representatives; that is the only thing. If the suggestion was made, it is easy enough to say

that one member suggested that casual vacancies should be filled by the Governor.

Mr. Harper: I could not trace it, My Lord, but I think the suggestion has been made.

Chairman: We will have it looked up, Mr. Harper, and we will see if there is any reference. Then I am sure there is no objection to paragraph 20. Then paragraph 21.

U Ba Si: In the sixth line, in place of the words " a group " I should like to have " a large group, " because it consists of twelve.

Chairman: Of course one might say " a company of delegates " or " a number of Delegates."

U Ba Si: " a large number of Delegates."

Chairman: Has anybody any objection?

Lord Lothian: One might say " a considerable number."

Chairman: Would " a considerable number " be too much?

U Ba Si: Yes.

U Ni: To the last line in the first part of paragraph 21: " A ratio of one seat to every 20,000 voters " was suggested. I would add: " by the same group."

Mr. Wardlaw-Milne: The whole thing follows on the group.

Chairman: Yes.

Mr. Cowasjee: If you use the words " large group " you will have to alter the next paragraph: " There was much support for a proposal that, having regard both to expense and efficiency . . . "

Chairman: " Group " has dropped out. It has been resolved into a number.

U Ba Pe: What does " much support " mean?

Sir O. de Glanville: Large numbers.

U Ba Pe: I would rather say " certain support."

Lord Winterton: No; I think it is only fair, if the thing above was altered, that we should stick to our word—not necessarily the actual *ipsissima verba*, but something that gave the impression that there was considerable support for the view.

Chairman: Shall we say " decided support "?

Lord Winterton: Do you accept " decided support "?

U Ba Pe: No, My Lord. I do not quite follow " much."

Major Graham Pole: Do you prefer " decided "?

U Ba Pe: " Some support, " I think.

Chairman: Or would you like " many supported " ? I find that that is objected to on my right. They say there was more than " some."

Lord Mersey: Say " important."

Lord Lothian: " By no means negligible."

Lord Winterton: " Definite."

U Ni: If it is " definite " I think the number 150 only should find place there, not 100.

Sir O. de Glanville : It was 103.

U Ni : 100 was suggested, I think.

Lord Winterton : If I may suggest it, I think that there could be no objection to the word " definite, " because it was definitely expressed. That does not commit you to any numbers.

Sir O. de Glanville : " Considerable."

Chairman : I have used " considerable " just above.

Sir O. de Glanville : " Much definite support."

Chairman : Shall we say " There was definite support"?

Mr. Campagnac : " Decided support."

Chairman : Well, I must use one word; that is the only thing. Will you leave it to me whether it is " decided " or " definite"?

U Ni : I would leave it to Your Lordship, but 100 is not a popular number.

Major Graham Pole : No one suggested 100; it was from 103 to 150.

U Ni : And I think opinion ranged from 150 to 200.

Sir O. de Glanville : That is right.

Chairman : That is above; we have dealt with that.

" There was decided support for a proposal that, having regard both to expense and efficiency, the House of Representatives should consist of from 103 to 150 members."

Major Graham Pole : The next sentence runs " Those supporting this proposal. " Is that the 103 or the 150, or the one in between?

Chairman : That is the 103 to 150. Do you mean you want to put in " the latter proposal "?

Major Graham Pole : I think that would make it clearer.

Chairman :

" Those supporting the latter proposal questioned the advantage of giving Burma a larger proportion of members to the population than is the case with European or other Eastern countries." That is right, is it? It rather suggests that Europe is an Eastern country.

Major Graham Pole : That means other Eastern countries than Burma.

Chairman : That is what it is intended to mean. It just crossed my mind whether it expressed what we mean.

Lord Winterton : Yes, I think it does imply that.

Chairman : " European or Eastern countries. " *Ipso facto* Burma is excluded, because you are dealing with Burma, are you not?

U Ba Pe : Yes: but what about America for instance? That is not eastern."

Chairman : I do not know what America is. Perhaps we had better say " Or other unplaced countries. " I think that would be all right.

Major Graham Pole : I think it might read " Other countries, European or eastern."

Chairman: Yes, I think that is better—"or other countries, European or otherwise."

U Ba Pe: Why not say "European or otherwise"?

Chairman: It is really all other countries. We might make it "than is the case with other countries."

U Ba Si: These are the exact words as used in the discussion. European or eastern countries.

Chairman: We are not tied to the words used in the discussion. We might be able to express it in a better manner. I think we might say "than is the case with other countries." Then I think nothing will arise on paragraph 22 and we will go on to paragraph 23.

U Ba Pe: I should like to call attention to the last two sentences in paragraph 23, which read:

"But it was generally agreed that officials should attend to express the views of the Governor on matters relating to reserved subjects. Such officials would have the right to address the House but would not vote."

You say "generally agreed."

Chairman: That they should express the Governor's view on reserved subjects.

U Ba Pe: We pointed out that it should be done through the Ministers.

Mr. Wardlaw-Milne: But this refers to reserved subjects.

Chairman: I think that what *U Ba Pe* means is that his proposal was that on reserved subjects it should be done through a man who was called a Minister though responsible to the Governor.

U Ni: Responsible to the Governor.

Sir O. de Glanville: Non-official.

Chairman: Should we say then "There was much support for the suggestion"? I think there was that.

U Ba Pe: Yes.

Chairman: Then we will go on to paragraph 24.

Mr. Campagnac: There is no mention in this paragraph of the claim made on behalf of the Anglo-Burman community that they should have at least two seats in the Lower House.

Chairman: The paragraph reads:

"Some Delegates declared their opposition on principle to any representation in the Lower House except by means of direct election. Others considered nomination necessary to secure representation of certain elements not likely to secure adequate representation by other means. The question of nomination was therefore discussed in conjunction with the larger question of the continuance of representation of minority communities and special interests by means of separate electorates."

That is a general statement, is it not?

Major Graham Pole: It would not come in paragraph 24 in any case.

Chairman: No, I do not think so. If it came in anywhere it would be later.

U Ba Si: In place of the word " some " why not put in words like " several Delegates."

Chairman: I think there is no objection to that. Then if there is nothing more on that paragraph we will go on to paragraph 25.

Lord Mersey: In line 3 after the second " as " you will want the word " in. "

Chairman: That is right.

Mr. Campagnac: I think my phrase would come in here, My Lord.

Chairman: You will notice that there is a proposal with regard to the Anglo-Indians at the top of page 9.

Major Graham Pole: It is stated in this paragraph that the minority interests constituted 25 per cent. of the population of Burma and held 50 per cent. of the country's wealth. Instead of the word " stated " I would rather have " alleged, " because Mr. Haji, who brought forward those figures, gave us no information as to their basis. It was simply an allegation by one member without proof. Nothing was put before the Committee.

Chairman: My objection to the word " alleged " is that it sounds very much like a law court.

Major Graham Pole: What I want to bring out is that the statement was not in any way admitted by any one other than the gentleman who made it. He produced no evidence and referred us to nothing.

Chairman: Would you like it to appear: " it was stated without any evidence . . . " ?

Major Graham Pole: I would say that it was not supported by any figures, and no evidence was given to show how it was arrived at.

Lord Winterton: Would not a better phrase be, " it was contended " ? I do not think we should have the word " alleged."

Mr. Haji: I can give you volumes of evidence if you want.

Chairman: We do not want evidence now.

Lord Winterton: Does Mr. Haji agree that the word might be " contended " ?

Major Graham Pole: Or " it was submitted by one Delegate."

Mr. Haji: Yes, that meets my point.

Mr. Isaac Foot: It might read: " One Delegate submitted."

Lord Mersey: I would point out that the figures given on the top of page 9, namely 9, 5, 1, 4 and 1 do not add up to 23. I suppose that it understood.

Sir O. de Glanville: That is the present representation.

Lord Mersey: The wording of the paragraph might to some be a little misleading. I think we ought to try and get it clear.

Chairman: Anything more on that?

Mr. Haji: With regard to those figures of percentages in the last but one line in that first paragraph on page 9:

" distributed as to 20 to 25 per cent. in European hands and 30 to 35 per cent. in Indian and Chinese hands."

I think it should be 25 instead of 35, because the 25 goes with the other 25. That will go with the other 25 and make 50. I think that is what I stated.

Chairman: Very well. Is there anything further?

Mr. Cowasjee: My Lord, I contended that the existing Indian representation should in no circumstances be reduced. That has not been brought out.

Chairman: The suggestion is that it should be increased.

Mr. Cowasjee: Yes.

Chairman: Therefore the loss is implied in the former.

Mr. Cowasjee: That is quite correct; but if it is not increased, it should in no circumstances be reduced. But I will not press my point.

Chairman: I think it does rather weaken your argument.

Sir O. de Glanville: My Lord, at the end of paragraph 25 on page 10 it says:

“ On behalf of Burma-Muslims. . . a plea was put forward for either half the number of seats given to the Karens or for a minimum of four to six seats out of 200.”

As far as I recollect that was afterwards modified to Indo-Burmans, and it was not to be in addition to the 18 per cent. Indian seats, but was to be a part of those Indian seats.

Mr. Cowasjee: No, no.

Sir O. de Glanville: That is what the suggestion was. It rather looks here as if this was a claim by the Burma-Muslims to have an addition to the 18 per cent.; I think U Aung Thin's point was that of whatever number of seats were given to the Indians, a certain number should be reserved, he said, for Indo-Burmans. I know he started off with Burma-Muslims, but it was afterwards modified to Indo-Muslims to be taken out of the Indian reservation.

Chairman: What is your suggested emendation?

Sir O. de Glanville: I do not know; U Aung Thin may tell you. My recollection is that he modified that to Indo-Burmans and then he also stated that it was to be reserved from the seats allotted to the Indians.

Chairman: Where do those words come in?

Sir O. de Glanville: It would come in after “ 200. ” It would read: “ and for a minimum of four to six seats out of 200 to be reserved for Indo-Burmans from among the seats allotted to Indians.” That was the method he suggested.

Chairman: Well, you do not want “ Indo-Burmans ” do you?

Sir O. de Glanville: This rather reads as if there was a claim made that the Indo-Burmans were to have the six seats in addition to the other seats.

Chairman: I follow the argument. I was only considering your drafting. You do not want to state that again do you?

Sir O. de Glanville: So long as it is clear it is not a plea for an additional number.

Chairman: " Or for a minimum of four to six seats out of 200 from any seats allotted to the Indians." That is what you mean, is it not?

Sir O. de Glanville: Yes; I think that was what was said in U Aung Thin's speech.

Chairman: We might have that looked up.

Mr. Haji: In this connection I would like to add to the last few words that you get after putting in the suggestion of Sir Oscar, some mention of the fact that this attempt further to sub-divide the Indian community in Burma was contested by us on this side. It is only fair.

Chairman: Well, but was it contested?

Mr. Haji: Yes, it was. As a matter of fact, My Lord, you will perhaps recall that I asked a number of questions of U Aung Thin as to the credentials, as to the composition of the body, and so on, and so forth.

Chairman: In view of that objection, do you press that amendment, Sir Oscar?

Sir O. de Glanville: I draw attention to it. It is not really my concern, My Lord, but for the sake of an accurate record of what happened I mention it.

Mr. Haji: After all, My Lord, it looks as if U Aung Thin himself is not very keen on this point—but, in any case, I hope you will incorporate my point even on the basis of the existing draft, because it is necessary to make it clear that this plea put forward by U Aung Thin was contested by us; that is all.

Chairman: Well, is it necessary to put it forward at all? Perhaps U Aung Thin will not insist.

Major Graham Pole: As this stands it sounds as if it were in addition to all the other things.

Chairman: I quite followed that, but I am asking a different thing—whether U Aung Thin, in view of this objection stated, wants to have the sentence incorporated in the Report.

U Aung Thin: I do not mind, My Lord. My point is clear in my speech.

Chairman: You do not mind whether it is in or not?

U Aung Thin: No.

Chairman: Then there is no point in putting it in.

Mr. Haji: Then the small paragraph might be deleted.

Chairman: That is what I was suggesting.

Mr. Haji: The five lines in the Report, together with the addendum I have suggested, might be omitted—the whole lot might be omitted.

U Aung Thin: I would rather have the paragraph as it is, provided the point is clear in my speech.

Chairman: You mean you would rather have the paragraph in with the correction or addition that Mr. Haji suggests: is that right?

U Aung Thin: Yes, if the correction is to be insisted on by the other side.

Mr. Cowasjee: Oh, yes, we insist on that.

Mr. Haji : I want the correction because you want the paragraph.

Chairman : Very well. I do not think anybody has any objection to that.

Mr. Loo-Nee : Paragraph 25, on page 9. With reference to the paragraph beginning with the words "As regards the Karen community," in the last line of the paragraph are the words "a largely increased proportion of representation." I would like to draw the attention of this Conference to, shall I say, the harsh tone of the phrasing here, because it conveys the impression that the Karens are asking for a great deal more than they should. Here we have to face the fact that there will be an enlarged Council or House, and, therefore, the claim that we submit—one Karen for each of the districts in Lower Burma—means that they will be about 16 in number, and on the basis of a House of 200 representatives 16 will be only 8 per cent. We now have 5.

Chairman : You now have 5 per cent?

Mr. Loo-Nee : We now have 5 per cent.

Chairman : And you do not want more?

Mr. Loo-Nee : We do want more, and that is shown in the fact that we are asking for one representative from each of the districts in Lower Burma, which is 16. So that here the words "largely increased proportion" would not be right.

Chairman : You think that the phrase is exaggerated. You mean that from 5 per cent. to 8 per cent would be an increase in proportion but not a large increase.

Mr. Loo-Nee : No.

Chairman : Is that your point?

Mr. Loo-Nee : That is so.

Chairman : What phrase would you prefer?

Mr. Loo-Nee : It has been generally recognised by the whole Conference—I think there is no dispute about it—that the Karens are the children of the soil. The Karens are an indigenous people of Burma. Therefore when our Indian friends are asking for 18 per cent. we submit that our request for 16 seats out of 150 or 180 or 200 is not a largely increased proportion of representation.

Chairman : You mean that an increase from 5 per cent. to 8 per cent. is not a large increase. That is what you mean, is it not?

Mr. Loo-Nee : That is so.

Chairman : You think it is exaggerated. The sentence reads at present :

"In a wholly elected House of 180 to 200 members this would give them a largely increased proportion of representation."

Suppose we say "This would give additional representation to the Karens." Would that meet you?

Mr. Loo-Nee : Yes. Or Your Lordship might put it "reasonable increase."

Chairman : Should we say this would give "a larger proportion of representation?"

Major Graham Pole : Suppose we leave out the word "largely" and say "this would give them an increased proportion." That would not commit us to anything.

Mr. Loo-Nee : Why not say "This would give them a reasonably increased proportion."

Chairman : That, of course, is tendenc'ous, as they say.

Lord Mersey : Why not simply say "increased."

Major Graham Pole : Yes, take out the word "largely."

Chairman : Then we will make it read "an increased-proportion of representation." Would that meet you?

Mr. Loo-Nee : Yes.

Chairman : In your speech no doubt we shall hear it argued that it is very reasonable.

U Ba Si : I think the suggestion was made by some of the British Delegates that the minorities representation should be only for temporary purposes, for about ten years. To that suggestion there was no objection on the part of the minorities themselves.

Major Graham Pole : Yes, that it should not form a permanent part of the Constitution.

Tharrawaddy U Pu : That is what we mean.

Chairman : Who said that?

Major Graham Pole : I think Mr. Isaac Foot did.

Mr. Cowasjee : Nobody accepted it.

Major Graham Pole : But nobody objected to it.

Mr. Haji : I think it should not go in. If it had been brought up, all the communities would have contended that no change in the settlement should be made without the willing consent of those communities.

Mr. Cowasjee : That was the principle adopted at the Indian Conference.

U Ni : But we are not necessarily bound by that. We could make a reference to the suggestion.

Chairman : Would there be any objection to saying that the suggestion was made by one of the Delegates that minority representation should not continue for more than ten years?

Mr. Haji : Not if it is added that it was not accepted by the Committee.

Sir O. de Glanville : The suggestion was that the matter should be reviewed at the end of ten years, not that the representation should be discontinued after that time.

Mr. Cowasjee : It was merely an observation by one member in the course of his speech. We cannot incorporate every suggestion in the Report.

Chairman : The suggestion was made that the question of minority representation might be reviewed at the end of ten years.

U Ba Pe : The statement made by Major Graham Pole was that it should not form a permanent feature of the constitution.

Mr. Haji : Cannot we say, as has been done in other instances, that a suggestion was made to this effect but did not find any support?

Chairman : But some Delegates say that they did support it, although in silence.

Major Graham Pole : Cannot that part of our proceedings be looked up? I rather think it came in Mr. Isaac Foot's speech.

Chairman : We will have it looked up.

Lord Mersey : I think the words " a house of 200 " should appear at the end of the first paragraph on page 10.

Chairman : Yes, it would be clearer.

U Ba Pe : In paragraph 26 it is stated that, according to the rule of the League of Nations, " a minority must contribute at least 20 per cent. of the total population ". The word should be " constitute".

Mr. Loo-Nee : With regard to that same word, I have considered this matter and as the record stands it seems that U Ba Pe's statement is regarded as correct, or at any rate is not disputed. Even on the strict interpretation of the League of Nations rule, so far as the Karens are concerned, we come well within the four corners of this rule, because as things are the Karen population in the Karen States is not enumerated. If those Karens are enumerated we Karens are more than 20 per cent.

U Ba Pe : Then you are entitled.

Chairman : Yes; you do not come under this banning rule.

Mr. Loo-Nee : No; and therefore, My Lord, as we Karens are the only other indigenous race in Burma who fulfil this rule, the treatment meted out to us should be on a fairer basis.

Lord Winterton : But all that U Ba Pe suggested was that the word " constitute " should be substituted for the word " contribute "; and obviously that is the more grammatical phrase. That is all U Ba Pe suggested.

Mr. Loo-Nee : Yes, but the suggestion was that there was no race in Burma who constitute 20 per cent. of the population, and therefore the question of minorities does not arise.

Chairman : That was his contention, which, of course, you throw over with indignation. But you see U Ba Pe is good enough to go on; he says: " But if it were held that minorities in fact exist "—So that you come in, anyhow. Either you are not a minority or you are one, and you come in on both hands, as it were.

Mr. Loo-Nee : But with this we hold a better hand.

Chairman : You hold a better hand if you are a minority than if you are not one? Well, I think that is so. But we are, as Lord Winterton says, really only on the point of whether this word " constitute " should be substituted for the word " contribute ". You are not suggesting any other amendment, are you?

Mr. Loo-Nee : No; I am just drawing the attention of the Conference to the fact that we Karens, even if this rule is applied, are well within that rule.

Chairman : I think that was very cute of you, if I may say so, to take every opportunity you get. Is there anything more on paragraph 26?

Mr. Loo-Nee: As regards paragraph 26, if I may rise again, on page 11, about the middle of the page, we read:

“ In the case of the Karens there appeared to be no unanimity in favour of separate electorates,”
and so on. This is not a true statement of facts, My Lord.

Sir O. de Glanville: It is U Ba Pe's statement.

Mr. Loo-Nee: Yes, it is my friend U Ba Pe's statement, but it is not a statement of fact.

Major Graham Pole: It was stated.

Mr. Loo-Nee: It was stated, as Major Graham Pole would say, “ without evidence ”. Now, My Lord, I must be quite honest with this Conference. I do not want to inflict a few hours speech on this Conference. I have told this Conference that if I have to answer U Ba Pe I would take a few hours. This is not a statement of fact, and I shall be as short as I possibly can be.

Chairman: It says:

“ In the case of the Karens there appeared to be . . . ”
It was stated, was it not? It was contended. Why should not we use the same expression? That would show that it was simply a statement put forward by somebody.

Major Graham Pole: It was contended but there was no unanimity.

Chairman: “ It was contended, though the statement was denied ”?

Mr. Loo-Nee: “ Vehemently denied. ”

Chairman: I do not much like putting in these adverbs.

Sir O. de Glanville: Would it meet Mr. Loo-Nee if we put in “ these views were dissented from by the Karen Delegates ”?

Chairman: Well, we have rather avoided using names.

“ In the case of the Karens it was stated, though the fact was immediately contradicted ”
or

“ at once denied. ”

Major Graham Pole: It was premised to be denied in one speech.

Lord Mersey: I think, My Lord, the point raised is that that sentence, as it is drafted, might be read so as to suggest that the Karens stated this.

Chairman: That is Mr. Loo-Nee's point. He does not want it to be suggested, as you say. That is what I understood him to mean. It has the appearance rather as if it was the view of the Karens.

U Ba Pe: I do not quite follow what Mr. Loo-Nee wants because my statement is a fact; it is not the product of my imagination. I can read out the letter of the Karen National Association on this point.

Chairman: Yes, but you cannot object to it being said that the statement was denied? You cannot object to saying, “ the truth of which was denied, ” can you?

U Ba Pe: But there is the fact against him—the letter.

Lord Winterton: Surely there would be no objection to saying it was immediately denied, even if it was a fact.

Mr. Loo-Nee: I certainly denied it.

Major Graham Pole : Mr. Loo-Nee not only denied it, but he said he would controvert it, point by point, in a speech of some hours' duration.

Chairman : Would it do to say " the statement was at once disputed " ?

Is there anything more on paragraph 26 ?

U Ni : In the last line, after the words " the view was expressed " I should like to add the words " most emphatically. "

Major Graham Pole : Could " generally expressed " go in there, because I think Sir Oscar agreed to that ?

Chairman : It is suggested that we should say " The view was generally expressed. "

Mr. Cowasjee : That is certainly not so. There is no reason why the minority community should not combine with one section of the majority community. That is so in all democracies.

Chairman : Would it do to turn it round and say,

" Fears were expressed that a situation might arise in which minority members might combine with a minority Burmese party to defeat the Burmese majority " ?

Chairman : Then we come to paragraph 27. I am afraid there is no dispute about that, unfortunately. Then paragraph 28, I think, will be agreed to; paragraph 29, I think, will be found quite correct. Then we come to paragraph 30, dealing with the certification of Money Bills.

U Ba Pe : In paragraph 30 you say : " but that if his decision were challenged, the question should go for decision to a Senior Judge of the High Court. " The suggestion was that it should go to a Committee of Privileges and not to a Senior Judge.

Chairman : A Committee of Privileges was it ?

U Maung Gye : That was the suggestion made by me.

Sir O. de Glanville : The suggestion that it should go for decision to a judge was made, I think, by Lord Winterton and I said that there was no objection to it going to a judge in his judicial capacity. I am not sure about the word " Senior, " but it was a judge of the High Court.

Chairman : You mean a judge of the High Court without assessors ?

Sir O. de Glanville : I objected to bringing a judge of the High Court off the Bench into the Council Chamber to sit together with politicians to decide it. I think the suggestion that it should be decided by a judge first came from Lord Winterton and I said I had no objection provided he sat as a judge and decided on the case referred to him.

U Maung Gye : I expressed the view that in the case of the Speaker's decision being challenged by the Upper House, the question should go to a Committee of Privileges consisting of three members of the Lower House and three representatives of the Upper House presided over by a Senior Judge of the High Court. That view is shared by all the twelve Delegates on this side.

Chairman: Then you say that this is really too great an abbreviation of the procedure. Is that your point—that it does not really express the procedure you suggested?

U Maung Gye: That was the procedure I suggested.

Chairman: Did anybody suggest, can you remember, that a Senior Judge should act alone?

Sir O. de Glanville: I did, My Lord. The original proposition, of course, was based on Article 35 of the Irish Free State Constitution. I object to the judge in Burma coming down from his Bench and taking part in politics.

Chairman: You object to his being made use of at all in this connection?

Sir O. de Glanville: No, I have no objection to a case being referred to him if he decided it as a judge, but I did object to his coming down and sitting with politicians.

Chairman: I should have thought you were bringing him more into politics by making him sole judge.

Sir O. de Glanville: I do not think so in Burma, My Lord.

Chairman: Then the passage should read: "That the Speaker would ordinarily certify, but that if his decision were challenged the question should go for decision before a Committee of Privileges presided over by a Senior Judge or to a Senior Judge sitting alone."

Sir O. de Glanville: Yes.

Lord Winterton: That does not quite represent what took place. I put forward the proposal which is here recorded and Sir Oscar de Glanville took exception to it. It should be made clear that the proposal was not unanimously accepted. I do not think the proposal now mentioned was in fact, discussed.

Sir O. de Glanville: No, it was not discussed.

Chairman: I was wanting to bring in the suggestion of some Delegates on my left that the question might go to a Committee of Privileges.

U Maung Gye: That proposal was made in the course of the discussion from this quarter of the Committee, that the question should go to a Committee of Privileges presided over by a Judge.

Lord Winterton: My objection was only against breaking the rule that we have hitherto followed on both sides against putting in something not stated in the previous discussion, but if the suggestion was made I entirely agree that it should go in.

Chairman: It is not very clear exactly what was said. Perhaps we could redraft it. If a decision is challenged the question can go to a Senior Judge of the High Court or to a Judge sitting as chairman of the Committee of Privileges. That is what is intended.

Lord Mersey: I suppose the word "challenged" in the first line of page 13 means challenged by the Upper House, not challenged by the Lower House. It is a little vague.

Chairman: I am afraid it is.

Of course as a matter of fact it is the only place where it would be challenged, is it not? There is nowhere else where it would be. I, personally, do not quite like the suggestion. That is another point altogether. I do not like the suggestion but I think that is as it was suggested. I would much rather that, in the first place, it should go either to the Speaker with assessors or the Judge with assessors. I do not think it would be a very good plan to make an appeal from the Speaker to the Judge. But we are really only trying to record what actually was suggested and stated, and perhaps putting it in that alternative form would meet you?

U Maung Gye: Instead of saying "should go for decision to a Senior Judge of the High Court," you might substitute: "should go for decision to a Committee of Privileges presided over by a Senior Judge of the High Court."

Chairman: Or to a High Court Judge sitting alone.

U Maung Gye: I doubt if that suggestion was made by anybody.

Mr. Cowasjee: I made that suggestion.

Sir O. de Glanville: Well, I have no objection to that. I think that might be stated though I doubt very much whether a High Court Judge would desire to sit with politicians as judges.

Major Graham Pole: High Court Judges may have to do lots of things they would rather not do.

Chairman: I have, myself, sat with these lay judges in the Committee of Privileges in the House of Lords, and they did not seem to object very much. We could say: "or to a Judge sitting alone." I do not think there is any harm in that. Then paragraphs 31 and 32?

Mr. Haji: In the last line in paragraph 31 it says: "that decisions should be taken there by a bare majority of those present and voting." I was under the impression that some members in the course of the discussion on this point stated that a two-thirds majority should be required, and I think my friend U Ni made some reference to the subject. So if you have no objection, I would suggest that it might be added here that this point was also mentioned: not only a bare majority.

U Ni: I do not raise this point because I have changed my opinion. I might have spoken, but since then I have changed my opinion.

Mr. Haji: As the Report appertains to what was stated there I think it would be only fair.

Chairman: As I said before, a Delegate is of course obviously entitled to alter his provisional opinion. Now your party is reduced to one, is it not, Mr. Haji?

Mr. Haji: I have no objection to its going down as that. I do feel that in this joint Session we shall have more parallels in other Constitutions if we have something more than a bare majority.

Chairman: That was stated?—because again we do not want things interpolated now.

Mr. Haji: Even if U Ni has changed his mind, I do not think I will change mine.

Chairman: You have not changed your mind?

Mr. Haji: I have not.

Chairman: What is your exact suggestion?

Mr. Haji: My suggestion is that instead of a bare majority we should have a two-thirds majority.

Chairman: "One Delegate suggested that a two-thirds majority should be required." Is that it?

Mr. Haji: That will be all right.

Chairman: I suppose nobody has any objection to that going in. Then I do not think there is an objection on paragraph 33, is there? Then 34; and then we get on to paragraph 35, the question of whether an extension of the franchise is necessary.

U Ni: In the last line of paragraph 34 you say:

"... there was a division of opinion as to the possibility of distinguishing between political crime and crimes involving moral turpitude."

I think the division of opinion was not as regards political crimes, about which everybody seemed to understand what I really meant, but with regard to other qualifying remarks introduced later by subsequent speakers. On those there did seem to be a division of opinion.

Major Graham Pole: No, I rather think that there was difference of opinion about political crimes, because one knows that political crimes, although they may be for political motives, or alleged to be for political motives, may involve killing and all sorts of things. I think it is right as it stands.

Sir O. de Glanville: Would it not do to put "between crimes involving moral turpitude and other crimes," omitting the word "political"? There are other crimes which are not political which do not involve moral turpitude.

Chairman: Well, I think that was the discussion—whether you could separate crimes.

Lord Lothian: Do not all crimes except political crimes involve moral turpitude?

Sir O. de Glanville: Not necessarily. It is described as a crime to drive a motor car badly and run over a man.

Chairman: I remember that there were discussions on this point. I think I suggested myself that the matter was so controversial that it was better to avoid trying to settle it. One has, of course, had a great many discussions on it in the last ten or twelve years.

Lord Winterton: I am rather surprised to hear my friend Sir Oscar, a former President of a Legislature, say that certain non-political crimes do not involve moral turpitude, because we legislators, in passing acts imposing imprisonment, always presuppose that the crimes involve moral turpitude, otherwise we should be guilty of moral turpitude in passing the legislation.

Chairman: Now that Lord Winterton has explained Lord Lothian's point I think we had better leave it.

Now paragraph 35.

U Ba Si: In the place of the first words, "A group of Delegates," I want "A group of twelve Delegates" or "many Delegates."

Chairman: Well, we will say "many Delegates," shall we, otherwise everybody will always be asking for the precise number which would be rather inconvenient to count.

Sir O. de Glanville: In line 6 we shall have to put "These Delegates" instead of "This group."

Chairman: That is right, yes. Thank you.

I think at the top of page 15 the word "of" ought to be "on"—
"until the constitution had been tested over a period of years on the existing suffrage."

Paragraph 36. I do not think that is controversial.

Paragraph 37.

Paragraph 38.

U Ba Si: In paragraph 38, the last line but one, you say:

"Some suggesting 20 years, others 12"

and so on. Nobody suggested 20 years.

U Ni: I mentioned a figure from the Separation League's draft Constitution.

U Ba Si: But you suggested twelve.

Chairman: We will cut out the 20 years and then the paragraph will read:

"The length of residence in Burma to be imposed as a qualification for citizenship, some suggesting 12 years and some 7, 5 or 3 years."

Then we will go on to paragraph 39.

Mr. Cowasjee: On page 17, at the end of the second line, you say:

"For there are likely always to be many British subjects in Burma, resident for many years in the country in pursuit of business or professional avocations, who might never be in a position to prove the intention of settling there *permanently*."

I suggest that after the word "who" we might put in "though paying rates and taxes in Burma."

Chairman: Do you think that is necessary, because if they are "in pursuit of business or professional avocations" obviously they are paying rates and taxes.

Mr. Cowasjee: That is a point that was pressed, that we have a class of subjects who, although they are paying rates and taxes, would be debarred from exercising the political franchise.

Chairman: Yes, but I think that comes later.

Major Graham Pole: Yes, it comes at the foot of page 19, where it says:

"As between these suggestions a preference was expressed by several Delegates for a shorter rather than a longer period, for the longer the period of disqualification the greater the number of aggrieved persons who pay taxes but may not vote."

Chairman: That really deals with that point. It is intended to anyhow, and I think it really does cover it. Then we will go on to paragraph 40.

Major Graham Pole: Before we leave paragraph 39 I should like to draw attention to the last sentence in the paragraph which says that "The adoption of this qualification is at variance with the general

practice throughout the Empire." It is also at variance with the practice throughout the world.

Chairman: You think it should read:

" Another ground of objection which was taken to domicile was that the adoption of this qualification is at variance with the general practice throughout the world."

Major Graham Pole: Yes, throughout the world.

Chairman: Was that said?

Mr. Wardlaw-Milne: You could not alter it to " throughout the world " in that sentence because of what follows.

Major Graham Pole: Not in that sentence, I agree, but it was a very much wider thing than the Empire.

Mr. Wardlaw-Milne: You would have to add a separate sentence at the end.

Major Graham Pole: I do not think it really matters but it does make it stronger.

Chairman: Yes, it does.

Mr. Wardlaw-Milne: If you make it " throughout the world " you must strike out the word " British " in the next line.

Chairman: Yes, you could leave out " British " so that it would read " dependent on nationality, not on domicile."

Mr. Wardlaw-Milne: That would be all right.

Chairman: I think that is correct.

Lord Mersey: You could make it read " throughout the Empire or indeed the world."

Chairman: But you would still have to delete the word " British." I think we might pass on to paragraph 40.

Mr. Wardlaw-Milne: It is stated in paragraph 40 that the prescribed period of residence for Burman citizenship should be not less than five years. But in fact there were suggestions that it should be less than five.

Chairman: Two, if I remember aright.

Mr. Wardlaw-Milne: The Report gives the impression that there was no suggestion of a shorter period than five years, but in fact there were suggestions for shorter periods, even for three months.

Major Graham Pole: That is set out in paragraph 43.

Mr. Wardlaw-Milne: Would not the point be met in paragraph 40 by ending the first sentence at the word " residence," seeing that we are dealing with the period in paragraph 43?

Chairman: I think that would be better.

U Maung Gyee: But in paragraph 40 we are dealing with citizenship.

Sir O. de Glanville: There was very strong opposition on the part of many members to defining " citizen " at all. It was only a section who wanted " citizen " defined. There was a very strong view that there should be no definition.

Chairman: That is stated in paragraph 41. I think we had better leave the figures five years and seven years as they stand in paragraph 40, because there it is really in a different connection. It is not really contradictory to the other paragraph. Can we now go on to paragraphs 41 and 42?

U Ba Pe: In the last sentence of paragraph 42 it is stated that "the view was strongly expressed that it was not in Burma's interests to set up a test which would militate against the principle of equality of treatment for British subjects in all parts of the Empire." But, My Lord, U Maung Gye and I have quoted authorities to show that there is no equality of treatment for British subjects in the British Empire at all, and that is the reason why we should have a special case for Burma.

Chairman: But it was also said that it was a pity to set up a test which would militate against the principle of equality. The principle of equality of British subjects was the ideal.

U Ba Pe: This is handicapping Burma in the interests of the rest of the Empire.

Chairman: It was a view expressed. I mean you expressed a contrary view.

"The view was strongly expressed that it was not in Burma's interest to set up a test which would militate against the principle of equality of treatment for British subjects in all parts of the Empire."

U Ba Pe: On an equal footing there can be equality but not otherwise.

Mr. Cowasjee: The view may be wrong.

U Ba Pe: Yes, but other views should be put in.

Chairman: What do you want to say?

U Ba Pe: That there is no such thing as equality of treatment throughout the Empire. We have quoted from authorities on that point.

Chairman: I do not think that is denied.

U Ba Pe: Well, it should be stated here.

Chairman: Should it? All that is said here is that they do not like anything which militates against the principle of equal treatment. It does not suggest that there is equality of treatment for all British subjects in all parts of the Empire.

Sir O. de Glanville: We could say "in most parts of the Empire" instead of "all parts."

Chairman: Well, that would spoil the statement of the principle, would it not? I mean this is not the view of all the Delegates at all. It is simply that a view was expressed by some Delegates that there ought to be equality of treatment in the Empire, that this method would militate against such a principal, and therefore they were against it. That is all they said.

U Ba Pe: But the other view is that there is no such thing as equality of treatment in the Empire.

Chairman: But it is not alleged that there is. What is the good of denying a thing that is not alleged?

U Ba Pe: But what is the good of putting down a principle which does not exist.

Chairman: But you can always have a principle which unfortunately is broken in upon in many instances. I can say I am in favour of equality of men and women, if you like, but it is not recognised anywhere else; and you may say it does not therefore exist because it is not universally applied.

U Ba Pe: No, the point is, you can say equality of men and women on the same footing; that is all right; but when you say the same principle should be applied to Burma, you are not placing Burma on the same footing at all. You are placing Burma at a disadvantage unless you give some special privilege to Burma so that it may be placed on an equal footing with others.

Mr. Wardlaw-Milne: I must confess I find great difficulty in knowing what U Ba Pe wants put in here.

Mr. Haji: The last sentence is really a view attempting to reply to the earlier sentences.

Chairman: Let us read it:

"Reference was made to the Report of the Royal Commission on Indian Labour in respect of the floating Indian population which resides in Burma for no more than a few years at the most and returns to India with its earnings; and it was urged that Burma must be empowered to prevent her own people from being submerged racially and economically by Indian entrants from the one side and from Chinese on the other. Serious doubt was expressed by other Delegates in the light of census figures as to the gravity of the menace whether it be regarded from the racial, industrial or economic standpoint; but it was contended that if it was serious it could be dealt with by other means, for example by non-discriminatory restrictions on immigration. A suggestion was made that for non-indigenous persons a qualification similar to that laid down in the Constitution of Ceylon, *viz.*, a literacy test combined with a property qualification and a period of residence might be prescribed. The view was strongly expressed that it was not in Burma's interest to set up a test which would militate against the principle of equality of treatment for British subjects in all parts of the Empire."

That is to say, some Delegates simply said: "We do not want to set up special particular tests which would militate against the principle in which we believe, that is to say equality of treatment of British subjects in all parts of the Empire." That is all it means.

Mr. Wardlaw-Milne: My Lord, this paragraph strikes me, if I may say so, as being one of the best worded in the Report.

U Ba Pe: Yes, best worded.

Mr. Wardlaw-Milne: May I just finish? The first part of paragraph 42 puts the case, as I understand, that U Ba Pe is putting forward now; and the second part of that same paragraph puts the views of the other side. It seems to me that this paragraph does express

what was said in the Conference; it does not give any conclusion but it gives the true views quite clearly.

U Ni: Is it possible to add to this paragraph 42:

" This view, however, was contested on the ground that there was no equality in other parts of the British Empire."

Mr. Wardlaw-Milne: That is what you have said in the whole of the first part.

Mr. Cowasjee: Your whole case is brought out in the first part. It begins;

" It was admitted by some of those who advocate Burman citizenship . . . "

U Ba Pe: We do not admit that there is equality of treatment throughout the Empire, and we proved that by quoting from authorities. Even in this country you can prove it. It is supposed to be a very democratic country here, but I know of a Burman student who was here trying to get into the Officers' Training Corps at Oxford, and he was turned out because he had not got a white skin.

Chairman: I am afraid I cannot go into that.

U Ba Pe: I say there is no equality of treatment.

Mr. Wardlaw-Milne: But is not that what you say in the first part of the paragraph—" swamped by the unrestricted influx of inhabitants," and so on?

Chairman: May I again repeat what I said, that this does not say that there is equality of treatment in the British Empire, but it is a wish expressed by a certain section that equality throughout the Empire should be established, and they are against anything in this country or in South Africa or in Burma or anywhere which militates against that great principle. That is really all, I think.

U Ba Pe: We should like our view to be expressed also. .

Lord Mersey: What about putting " the desirable principle of equality "?

U Ba Pe: As a matter of fact it is not a desirable one for Burma, because equality of treatment between Burma and the rest of the Empire means that Burma will be nowhere, because she is not on the same footing as other parts of the Empire.

Major Graham Pole: Can *U Ba Pe* suggest any words which he would like to put in the first part of the paragraph where his case is stated? That is where it ought to come, surely, because the other part of the paragraph is merely a reply to his, which is the first part of the paragraph.

U Ba Pe: I would insert something, as suggested by *U Ni*, at the end of the paragraph.

Chairman: What is your suggestion?

U Ni: You could add " this view was contested."

Chairman: I was thinking of where it would come in. It is rather difficult to see where it could fit in. You want to fit in the paragraph—

" It was admitted by some of those who advocate Burma citizenship, if only as a temporary measure, that a principal purpose to be achieved is the prevention of Burma's national identity being

swamped by the unrestricted influx of inhabitants of the densely populated countries," etc., etc.—that the principle of equality of treatment for British subjects would not, in their view, be in the interests of Burma."

Mr. Wardlaw-Milne: We are not here to discuss that.

Chairman: I agree that we are not here to discuss that; we are here to say whether that was or was not stated in the course of discussion by the Delegates. That is what we have to say.

Mr. Wardlaw-Milne: I venture to suggest that if it had been stated in a way sufficient to enable it to be put in the Report you would have ruled it out of order.

Chairman: It is stated in this way:

"The view was strongly expressed that it was not in Burma's interest to set up a test which would militate against the principle of equality of treatment."

Mr. Wardlaw-Milne: That was stated.

Chairman: Yes, that was stated. On the other hand, U Ba Pe says that he wants to set up a test which would militate against the principle of equality.

Mr. Wardlaw-Milne: Well, if that was stated, I have no objection.

Chairman: Was that stated?

U Ba Pe: Oh, yes, I quoted a long letter.

Mr. Wardlaw-Milne: Then the simple way would be to put a paragraph at the end:

"This, however, was objected to."

Lord Mersey: Or, "This position was questioned."

Chairman: "The view was strongly expressed that it was not in Burma's interest"—then you might put in brackets after "principle" "(not universally observed in the Empire)."

U Ni: The principle of equality of treatment has been denied.

Chairman: That again is another point. You say that there is no such principle of equality of treatment. That is one thing. Another statement that has been made by U Ba Pe is that the application of the principle of equality to Burma would not be in the interests of Burma, which is a totally different thing.

U Ni: That is what he says now.

Chairman: You could say:

"The view was strongly expressed that it was not in Burma's interest to set up a test which would militate against the principle (not universally observed) of equality of treatment for British subjects in all parts of the Empire."

You might indicate there that it was not universally observed.

Mr. Wardlaw-Milne: I see no objection to adding that certain Delegates objected to this principle if they did so. I do not remember that being said but I am quite prepared to accept that it was. I see no objection to anybody saying that they object to that principle, although I think it is a dangerous thing to say.

Chairman: I was trying to improve the drafting. It reads now "a test which would militate against the principle of equality of treatment."

U Ni: "The existence of that principle of equality has been denied."

Lord Mersey: You can make a separate sentence at the end and say that "this principle was not admitted by all the Delegates."

Mr. Wardlaw-Milne: "Some of the Delegates were opposed to the principle."

Chairman: It is not so simple as that because they are not stating that. The sentence now reads:

"The view was strongly expressed that it was not in Burma's interest to set up a test which would militate against the principle of equality of treatment for British subjects in all parts of the Empire."

I suppose you could say that some Delegates wished to affirm their view that this principle of equality would not operate in the interests of Burma. I think I can improve that sentence a little by saying something of that kind if the Delegates would agree.

U Ni: What actually happened was that a section of the Delegates contested the existence of the principle of equality. They said that this alleged principle of equality of treatment for British subjects was not to be found anywhere in the British Empire. It is only a mere pious wish which does not really exist.

Chairman: You could put it in this way that some Delegates declared that this principle of equality did not exist in the Empire and would not be desirable for Burma if it did exist.

Mr. Wardlaw-Milne: That is all right if that is what they mean.

U Ba Pe: Unless Burma is placed on an equal footing with other parts of the Empire.

Mr. Wardlaw-Milne: What does that mean?

U Ba Pe: We would have to go through the whole history of Burma again.

Mr. Wardlaw-Milne: Perhaps we might have a sentence on these lines that some members held that the principle did not exist and that it should not exist in Burma.

U Maung Gye: We do not go so far as to say that. What we say is that this alleged principle of equality of treatment has not been generally recognised throughout the Empire. It still remains to be established.

Sir O. de Glanville: Could it be put in this way?

"That it would militate against the principle of equality of treatment for British subjects which it was considered should prevail in all parts of the Empire."

Chairman: That would prevent any suggestion that it did prevail.

Mr. Cowasjee: That would cover the point.

Mr. Campagnac: You put it very clearly, My Lord. They have said that this principle does not in fact exist, and even if it did exist, it would not be desirable under present circumstances.

Miss May Oung: It is to the principle under present circumstances that we object, not to the principle of equality in itself.

Chairman: "Some Delegates stated that under present circumstances they objected to the principle of equality of British subjects in the case of Burma." I want to get exactly at the point of view.

U Ba Pe: I will try and write out a form of words which I will bring up at the sitting tomorrow.

Chairman: I only want to get the matter clear. You say that the principle of equality of treatment of British subjects throughout the Empire, which is otherwise desirable, is not applicable to Burma under present circumstances? The principle is a good one, but under present circumstances you do not think that it would fit in.

U Ba Pe: I would suggest that the last sentence of paragraph 42 be somewhat as follows:

"The view was strongly expressed that it was not in Burma's interest to set up a test which would militate against the principle of equality of treatment for British subjects in all parts of the Empire, and that this principle of equality of treatment for British subjects in all parts of the Empire had yet to be established in other Dominions."

That is one point. This principle has yet to be established, and so long as it is not established, Burma should not be made to conform to that principle.

Chairman: You could say it much more shortly than that. You could say that this principle should not be set up in Burma until it was carried out in other parts of the Empire.

U Ba Pe: Quite so.

Mr. Harper: Is he saying that it is nowhere carried out?

Major Graham Pole: He not only said it, but quoted extensively in support of it.

Chairman: If there is nothing else in paragraph 43, I think we might perhaps before we rise deal with the matter of the High Court, which is not very contentious.

U Ba Pe: May I draw attention to the last three lines of paragraph 44, in which it is stated that the High Court should be constituted preferably by Letters Patent. Our view is that it should not be constituted by Letters Patent or by the Crown, but by the Governor on the advice of Ministers. That was what we suggested.

Chairman: You said that the Court should be appointed by the Governor on the advice of Ministers.

Sir O. de Glanville: It was agreed by everybody that the appointment should be made by the Crown, but it was contended that the Crown should act on the advice of the Ministers and the Governor.

U Ba Pe: The point here is that the establishment of the High Court should not be by Letters Patent but by a provision in the Act.

Chairman: Yes, the establishment of the High Court you want to be by Letters Patent. The other point is about the appointment of Judges.

U Ba Pe: That is the appointment of Judges. I am talking about the establishment of the High Court being not by Letters Patent but by provision in the Constituent Act.

Chairman: The new Constitution, it is suggested, should make provision for the establishment, but preferably by Letters Patent; and you say that it should make provision, but should make provision for the Court to be established by the Governor on the advice of the Ministers, I think?

Mr. Wardlaw-Milne: By the Crown. I do not see the point.

U Ba Pe: The idea is this: the intention of the new Constitution is to devolve later on full responsibility in the country. Of course, there will be an attempt to keep back these things from the people.

Mr. Wardlaw-Milne: Once it is established, it is established; you do not re-establish it again.

Chairman: I am sorry; it is my fault, but I am not quite clear as to what you do want, because there are two points. One point is the establishment of the Court which it is suggested here should be done by Letters Patent under the Constitution. The other point is the appointment of Judges, and, on that point, opinions differ as to whether they should be appointed by the Governor, by the Crown, or whether they should be appointed by the Governor on the advice of Ministers. Do not let us confuse the two things: the appointment of Judges and the preliminary actual setting up of the Court itself.

U Ba Pe: May I quote the Irish Constitution again on this point? There the Constituent Act provides the Judiciary, the High Court and so on, and the appointment of the Judges was done by the Governor-General on the advice of the Cabinet. The Constitution was done by the Act and not by Letters Patent at all.

Chairman: You would like to add a sentence to say: "Some Delegates consider that the Irish precedent should be followed"?

U Ba Pe: Yes, I do not mind that.

Chairman: That would express it, would it not?

U Ba Pe: Yes.

U Ni: That the Constitution itself should declare that the High Court should be established.

Chairman: The proposal here is that the Constitution should lay down provisions for the establishment of the High Court.

Lord Mersey: What they want is this, I understand: "Some Delegates consider that the High Court should be established by the Constitutional Act, and that the Judges should be appointed by the Governor on the recommendation of his Cabinet."

U Ba Pe: Yes.

Chairman: But we do not want to mix up those two things.

Lord Mersey: They are mixed up in the sentence before; they are both in the sentence before.

Chairman: No, this is only to do with the preliminary establishment of the Court; that is all, as starting the Court.

U Ba Si: In the last sentence in paragraph 44 both these points were dealt with.

Chairman: Yes, but that is the preliminary setting up, I understand. A court without judges is a sheell.

Mr. Wardlaw-Milne: Whatever authority sets up the Court must set up the first Judge.

Chairman: You can have Judges without a Court, but not a Court without Judges can you?

U Ni: But the first point of what Lord Mersey said was quite correct.

Chairman: Anyhow, let us get on. You would like it said,

“ Some Delegates suggested that the constitution of the Court shall be laid down in the Constituent Act itself ”?

U Ni: Yes.

Chairman: Well, I should like just to think over that. I know what you mean now, I think. It is rather a legal point, so I would rather like to take some advice on this, as to the form of it. We do not want to be contradictory.

Paragraph 45.

Paragraph 46. I do not think there is anything controversial here.

Paragraph 47. That point is set out there—the point about the Judges.

U Ni: In paragraph 45, the last sentence, “ a knowledge of Burmese ” means a sort of literary education; you must be able to read Burmese writing.

Major Graham Pole: We have got that in somewhere, surely.

Chairman: It is a knowledge of Burmese. Is “ Burmese ” correct? I am not quite sure.

Mr. Wardlaw-Milne: I think that is right. He means that it must be more than a colloquial knowledge.

Chairman: Can we say “ a knowledge of the Burmese language ”:

“ A knowledge of the Burmese language was mentioned by some Delegates as an important desideratum.”

You do not want “ among the Judges ” at all.

Mr. Wardlaw-Milne: No.

Chairman: Paragraph 46.

U Maung Gyee: In regard to paragraph 46 our view is that all the appointments to the High Court should be made by the Governor acting on the advice of his Ministers.

Chairman: Yes, but I think that is stated.

Lord Mersey: It comes in paragraph 47.

Chairman: Have you got a point on paragraph 47?

U Maung Gyee: Yes—that all appointments to the High Court should be made by the Governor acting on the advice of his Ministers.

Chairman:

“ Opinion was divided as to whether recommendations to the Crown should be made by the Governor in his unfettered discretion (though no doubt after consultation with those competent to advise), or at his discretion from a list put before him by his Ministers or strictly in accordance with their advice.”

Those three separate views were put forward.

U Maung Gyee: Yes, but our view has not been stated here. Our view is that the appointments should be made by the Governor and not by the Crown—the Governor on the advice of his Ministers.

Mr. Wardlaw-Milne: The last line on the previous page makes that clear, I think—

“ should be made by the Governor ”
and then under these different categories.

U Maung Gyee: According to the view stated here the Governor can only make a recommendation to the Crown, but our view is that the appointing authority should be the Governor acting on the advice of his Ministers.

Mr. Wardlaw-Milne: I do not think that was stated in the Conference.

U Maung Gyee: I stated that very clearly.

Mr. Wardlaw-Milne: It says in another paragraph that it was agreed unanimously that it should be done, but whether it should be done by the Crown upon recommendations made by the Governor, or by the Governor acting strictly on his Ministers' advice, were disputed points, but we all agreed on the Judges being appointed by the Crown. I may be wrong, but this comes to me quite as a surprise, that the Crown should have nothing to do with the appointment of Judges.

Mr. Cowasjee: I think I replied to *U Maung Gyee*'s speech, and my recollection is that we agreed that the appointment should be made by the Crown but on the recommendation of the Burmese Cabinet.

Chairman: That was my recollection of it. It was rather new to me when the suggestion was made that the Judges should not be appointed by the Crown at all. I have had the reference given to me now. What *U Maung Gyee* said was:—

“ We have a High Court in Burma at present, and doubtless we shall need a High Court on similar lines in the future. On the establishment of the new High Court, the Judges of the present High Court will continue in office on the same terms and on the same tenure as previously, but new appointments must necessarily be made by the Governor, on the advice of his Cabinet in accordance with constitutional usage.”

By that you intended to mean that the appointment should not be made by the Crown, is that so?

Mr. Wardlaw-Milne: I should certainly think that those words would convey the opposite meaning. I should take it to mean that it was the Governor who was to give advice to the Crown after consulting with the Cabinet. But if that was not intended, it could be put in.

Chairman: I agree with you. I thought that was what was meant, but you say that you meant by the Governor alone.

U Ni: On the advice of the Minister.

Chairman: But without the Crown.

U Maung Gyee: Not by the Crown, but by its representative, the Governor.

Mr. Cowasjee: The appointment should rest with the Governor, that is his point.

Chairman: Then paragraph 47 will begin:

" It was similarly divided as to where the responsibility should lie for recommendations to the Bench. It was agreed, except by one section of the Delegates, that appointment should be by the Crown."

Now we will go to paragraphs 48, 49, 50. Are there any observations on those paragraphs?

U Ni: I want to call attention to paragraph 46, the third line on page 21.

Chairman: Oh, you are going back.

U Ni: The paragraph says: " The view was held by some." I find that only one Delegate expressed that view.

Mr. Wardlaw-Milne: But many may have held it.

Mr. Cowasjee: Somebody from your side said it.

Chairman: Then we will say " The view was expressed that the best type of appointment." Is there anything more in reference to the High Court?

U Maung Gye: Corresponding changes will have to be made in the latter part of paragraph 47, dealing with temporary additional Judges. It should be added that such Judges should be appointed by the Governor on the advice of Ministers.

Chairman: Is it not better to leave that? It is rather tiresome to bother Ministers and the Cabinet over such small matters as temporary appointments.

U Maung Gye: A question of principle is involved.

Mr. Wardlaw-Milne: What is set out in this paragraph is what was generally agreed to by the Committee and I object to it being taken out. I do not mind an addition, but I resist anything being omitted that is in the paragraph at present.

U Maung Gye: I think that what I said on the point should also find its place here.

Chairman: It was expressed, was it?

U Maung Gye: I believe so.

Chairman: Then the last sentence of paragraph 47 should read as follows: " Some Delegates, however, urged that these appointments should be made on the advice of Ministers instead of the Chief Justice."

Sir O. de Glanville: Before that alteration is made I think we should pay attention to the decision previously reached by the Committee. I do not remember any suggestion that these appointments should be made on the advice of Ministers. Can we not verify it?

Chairman: If it is not in the proceedings, I take it that *U Maung Gye* will not want it included in the Report.

U Maung Gye: My contention related to all future appointments, even the filling of short term vacancies.

Mr. Cowasjee: It included all appointments, permanent or temporary. That was the point I think.

Sir O. de Glanville: With regard to paragraph 50, concerning the salaries of Judges, I do not think the Committee agreed to what is

stated there. It reads as if no contrary opinion was expressed. But in fact there was a contrary opinion.

U Maung Gyee: I do not think the contrary view was expressed at all.

Chairman: I take it there will be no objection to adding: "A contrary view was expressed by some Delegates."

U Ni: In paragraph 48, it is stated that some of the Committee favoured removal by the Crown on presentation of an address to the Governor by both Houses. I think the opinion on this side of the Committee was very definite on that point, and I would say, instead of "favoured," "it was strongly urged."

Chairman: It could read "Some of the Committee were strongly in favour of removal by the Crown," etc.

Mr. Wardlaw-Milne: I think it is a pity we use the word "strongly" so often, because it loses its value altogether.

Chairman: Is there any further point on this?

U Ba Si: I am following *U Ni*'s correction; in place of the word "Crown" there should be the word "Governor."

U Ni: That would be more correct.

U Ba Si: That is only a corresponding correction.

Chairman: You would have to say: "Removal by the Governor." [We might delete: "by the Crown." Then it would follow according to who did it, would it not?

Mr. Wardlaw-Milne: That gets over that difficulty.

Chairman: Yes.

(The Committee adjourned at 5-17 p.m.)

Proceedings of the Fourteenth Meeting of the Committee of the Whole Conference, held on Tuesday, the 5th January, 1932, at 11-15 a.m.

DISCUSSION ON THE DRAFT REPORT—continued.

Chairman: We have considered the draft Report up to the end of paragraph 50, and now we begin on the Services: Existing members of the Services, paragraph 51. We might take paragraph 52; I think that is not very controversial. Paragraphs 53, 54, 55.

Tharrawaddy U Pu: My Lord, I beg to refer to paragraph 51. You say:

" . . . the Committee was unanimously in accord with the recommendations made in this respect in the Report of the Services sub-Committee of the Indian Round Table Conference, and agreed that due provision should be made in the new constitution for the maintenance of those rights and safeguards for all persons who have been appointed before the new constitution comes into force.

When the new constitution is drawn up suitable safeguards for the payment of pension " and so on, " should be provided." I take it that the recruiting and controlling authority would be the future Government of Burma.

Chairman: But that is another matter altogether. This only deals with existing members of these Services.

Lord Mersey: I think that comes up in paragraph 56.

Major Graham Pole: The heading of paragraph 51 is only " Existing members."

Chairman: I think your point comes in paragraph 56, does it not? I think now we are just at it. Really your observation was relevant, only not on paragraph 51.

Tharrawaddy U Pu: Then my remark applies to paragraph 56.

Chairman: " As to appointment, all members of the Committee agreed that the appointing authority should be the Governor, but opinion was divided as to whether the Governor in making an appointment should (i) act alone, or (ii) act on the advice of the Ministers."

There were different views taken on that point.

Tharrawaddy U Pu: But I mean the decision of the Indian Round Table Conference on this point is that the recruiting and controlling authority should be the Government of India. Therefore our Burmese request was to give the same rights to the future Government of Burma—that is, the recruiting and controlling power.

Lord Mersey: Is not that included in No. 3 of paragraph 56.

" the Governor. . . should . . . be obliged to act on the advice tendered to him by the Ministers " ?

Chairman: I am told now that the point occurs in paragraph 59, when we get there.

U Ba Si: My Lord, on the fourth line from the bottom in paragraph 56 I see the words:—

" . . . be removable by the Governor only."

Instead of the word " only " it should be " Governor on the advice of his Ministers."

Sir O. de Glanville: No.

Chairman: " Members of the Public Services Commission should hold office ' during pleasure ' and be removable by the Governor only."

U Ba Si: Instead of the word " only " it should be " by the Governor acting on the advice of Ministers."

Chairman: Well, was that suggested?

Sir O. de Glanville: I do not think so.

U Ba Si: It was.

Sir O. de Glanville: It is quite contrary to everything that goes before. We want the Public Services Commission to be an independent body not subject to political influences. Now it is suggested that any Ministry can advise the Government to remove them.

Tharrawaddy U Pu: One suggestion is incorporated there, but not others in that respect.

Chairman: There are suggestions about the appointment, but then:—

“ Members of the Public Services Commission should hold office ‘ during pleasure ’ and be removable by the Governor only.”

Sir O. de Glanville: The same as a judge.

Lord Mersey: That would depend on what was adopted, I imagine. If the Public Services Commission was appointed by the Governor only, then, presumably, they would be removable by the Governor only. If they were appointed by the Governor on the advice of Ministers, then, presumably, they would be removed in the same fashion.

Chairman: You might say that the Governor should act on the advice of Ministers in making appointments, but that when once appointments are made they should be free from political influence altogether, and the only person to remove them should be the Governor. That is quite an intelligible and different position. I see that U Ba Pe dealt with this at the 9th Meeting of the Committee. U Ba Pe said:

“ In my opinion, as soon as the new Constitution comes into operation a Public Services Commission should be appointed. The Members of that Commission will be appointed by the Governor; I do not want the Cabinet to interfere. The Governor should appoint the Members of the Public Services Commission for a term of years, and they should hold office during his pleasure.”

U Ba Pe: If you read further on you will see that the view is modified.

Chairman: I see that Mr. Wardlaw-Milne asked a question. He said:

“ I should like U Ba Pe to make that last sentence clear; I do not follow exactly what he means. Is it that it will be done by the Commission, but that the Government will also recruit? ” That is rather another matter, is it not? That is on recruiting. As regards appointment you appear to have stated. . . .

U Ba Pe: There is something more further on.

U Maung Gye: There is something in reply to a question by Mr. Ohn Ghine.

Chairman: Yes, I see Mr. Ohn Ghine asked:

“ Does U Ba Pe mean that the terms of service, emoluments, and so on will be decided by the Government, but that the actual selection of the men for the various posts will be made by the Public Services Commission?”

To that U Ba Pe replied: “ Exactly, that is what I mean.” Really that is another point. We are only dealing now with the appointment of members of the Commission.

U Ba Pe: I would like you to read the whole thing. So many questions were put by members of the Committee.

Chairman: You stated it very clearly there, did you not? I do not see anything more dealing with that point. The rest of it seems to be dealing with recruitment. It seems to me, U Ba Pe, that you made that statement as regards dismissal by the Governor only.

U Ba Pe: Both appointment and dismissal.

Chairman: Yes. I see you say:

"In the case of censure on a particular officer, it will be an individual case. In the case of an appeal by an officer against dismissal it will be an individual case. . ."

That is really another point. I do not see any other observation of yours on this point. I think that Tharrawaddy U Pu said he did not agree with you, but I do not think we can delay the Conference while all this is looked up. Perhaps at the luncheon interval you will let us know the exact reference so that it can be looked up.

Sir O. de Glanville: I notice that at the end of paragraph 57 it is stated: "the Governor, or the Government, as the case might be, should consult the Commission before passing orders on disciplinary questions affecting members of the Services." I do not think we went quite so far as that. It was indeed suggested that the Governor or the Government might in certain cases consult the Commission, and I think one member referred to a practice which had sprung up in Madras, but I do not think it was ever intended by anyone that every case of disciplinary action should be referred to the Commission.

Major Graham Pole: It was stated that that was the practice in India at present.

Sir O. de Glanville: I do not think so. One member referred to it as being the practice in Madras in certain cases.

Chairman: It is only on disciplinary questions that such consultation is suggested. It is limited to that.

Sir O. de Glanville: I think the word "might" ought to be substituted for "should"—"should consult the Commission".

Chairman: It is a great protection, of course, to those in the Services if they know that an impartial tribunal like that is consulted. It is only consulted, its decision is not final.

Sir O. de Glanville: I should have no objection to the word "should".

Chairman: We will have it looked up and see if it is in the record.

We now come to "Recruitment of the Services (other than the Medical Service)." Paragraph 58, I think, will be generally agreed.

Tharrawaddy U Pu. May I draw your attention to paragraph 59 in which it is stated that some of the Delegates considered that it should be left to the new Government of Burma to decide as to who the recruiting authority should be. We said very definitely that the Government of Burma should be the recruiting and controlling authority of the future Services. We did not agree that this matter should be left in the hands of the Governor. It is not sufficiently emphasised in the Report that our contention was made very definitely.

Chairman: But it seems to me that what you put forward is exactly what is stated here, namely, that it is left to the Government of Burma to decide as to the recruiting authority.

Tharrawaddy U Pu. What I stated was the decision taken by the Committee on the Indian Services. I quoted that, and emphasised it. It is not without evidence or without authority that I make the claim

for the new Government of Burma in this matter, and I cited as an authority the Committee on Public Services in India.

Chairman: What exactly is the alteration you wish to make in the paragraph?

Tharrawaddy U Pu: Where it says "while others," in place of "others" I want to say "a large number of Delegates." "Burmese Delegates," or some other words. If you do not want to say "Burmese," say "a large number." "Others" has no meaning at all. We twelve members represent Burma and the Burmese.

Chairman: Do not let us get into that question again. I want to know what precisely it is that you want.

Tharrawaddy U Pu: I want to say "while a large number."

Dr. Thein Maung: "While many others."

Chairman: What do you actually say is wrong? Do you want to insert that it should be left to the new Government of Burma in accordance with proposals of some Committee or other. Is that what you want?

Tharrawaddy U Pu: That the new Government should be the recruiting and controlling authority as was decided for India by the Indian Round Table Conference sub-Committee on Services.

Major Graham Pole: He does not want the Government of Burma to decide who it should be but he wants definitely to say that the Government of Burma should be the recruiting authority.

Tharrawaddy U Pu: Yes.

Lord Mersey: You do not wish the Government of Burma to have any power to indicate that any person may do it for them.

Tharrawaddy U Pu: No, My Lord; I said definitely that the Government of Burma should be the recruiting and controlling authority, as was decided for India by the Indian Round Table Conference Services sub-Committee. I quoted that decision as my authority.

Chairman: "While others again considered that the recruiting and controlling authority should be the new Government of Burma, as suggested in the— You do not want actually to quote from this Report; it makes such a long sentence. "While others, again, considered that the new Government of Burma should be the recruiting and controlling authority." Is that it?

Tharrawaddy U Pu: Yes—"as was decided for India by the Indian Conference." That is my authority, so that it may strike His Majesty's Government, when they come to consider this Report. They would be reminded by reading this paragraph that for India also, the Indian Round Table Conference sub-Committee recommended this.

Chairman: Yes. I think the Government know that well enough: I do not think they want to be reminded of that.

Tharrawaddy U Pu: We base our claim on that. I want the Government to know it as soon as the Honourable Members arrive at this page and at this line.

Chairman: "While others again considered that the new Government of Burma should be the recruiting and controlling authority, on the lines of the Indian Round Table Conference,

paragraph 4, sub-Committee 8," or whatever it is. We will shorten it as much as we can.

Tharrawaddy U Pu: Instead of saying "on the lines," why not say in so many words "as in the case of India," or as decided for India by the Indian Round Table Conference."

Chairman: I do not think you need be too precise.

Tharrawaddy U Pu: As you please, My Lord, if I cannot get my way.

Chairman: You are getting your way; I do not see that you have any reason to complain.

Tharrawaddy U Pu: If Your Lordship pleases, I would ask to have those words.

Chairman: I will put the words in, but you must allow to me a certain freedom as regards words. I do not like to put in a sentence which is bad English.

Tharrawaddy U Pu: The matter is left in Your Lordship's hands as to the form of words, but I want Your Lordship to say "while many others."

Chairman: Is that true?

Tharrawaddy U Pu: More than true, My Lord. That is not only Burman opinion, but I am sure that some others would also agree to it.

Chairman: If we said "some others" would that meet you?

Tharrawaddy U Pu: I do not know why only "some" instead of "many." "Some" may not mean Burmese opinion. We have lost our battle on that question of Burmese opinion also; we must remember that.

Chairman: I understand that these gentlemen on my left and others think it would be quite enough to leave the Government of Burma to decide what the recruiting authority should be. You want to tie them up, and I do not think others do.

Tharrawaddy U Pu: I have finished that point.

Chairman: I am only saying that I do not think it is "many others." I think the general view of the Conference is that the future Government should be left free to decide who shall be the recruiting authority. You want to tie them up, and to tie them up in a particular way. You do not trust the future Government of Burma to exercise ordinary common sense.

Tharrawaddy U Pu: I trust the future Government of Burma a thousand times more than you could trust them, because they are my own people.

Chairman: It is no good saying you trust them when you want to tie their hands.

Tharrawaddy U Pu: I want to make it clear here.

Chairman: I do not think you can allege that a large section of the Conference was of that view. A powerful section if you like, but not a large one.

Tharrawaddy U Pu: Very well, My Lord, you may put "some."

Chairman: All right; "some others."

Now paragraph 60.

Paragraph 61. I do not think there is much in that.

Then paragraph 62, I think, is uncontroversial too, is it not—"Loan of Officers"?

Now we come to "Excluded Areas," paragraph 63.

U Ba Pe: With regard to the first sentence of paragraph 63, "It was generally agreed," I should like to ask whether it was generally agreed. As far as I remember we did not agree to having any backward or excluded areas except the Shan States.

Chairman: You say you do not agree to there being any excluded areas?

U Ba Pe: We only agreed to the Shan States being treated separately; otherwise we say there should be no excluded areas.

Chairman: Well, that is a direct issue. I think we had better look that up.

"It was generally agreed that, as was recommended by the Statutory Commission, the areas in Burma now known as 'Backward Tracts' should in future be termed 'excluded areas.'"

You do not want to have any excluded areas?

U Ba Pe: No, My Lord, what I said was that they should be within the purview of the Legislative Council.

Chairman: "For the purposes of the Government of India Act these areas include the Federated Shan States."

U Ba Pe: U Maung Gye and others are agreed to that.

Tharrawaddy U Pu: I believe all the Burmese members agree to that—that there should be no excluded areas with the exception of the Shan States.

Chairman: It goes on to say in paragraph 64.

"This term 'Excluded Areas' was intended by the Statutory Commission to mean tracts 'which must be excluded from the general constitutional arrangements' and for the administration of which special provision must be made; and in pursuance of this intention the general sense of the Committee was that the administration of these areas, the inhabitants of which, though akin to the Burmans, are admittedly backward and not yet fitted for a share in representative democratic government, might well be carried out by the Governor . . . The view was expressed that it would be advantageous that the Legislature should have full opportunity from time to time to discuss the subject."

Are the words to which you object these:

"the general sense of the Committee was that the administration of these areas, the inhabitants of which . . . are admittedly backward and not yet fitted for a share in representative democratic government"?

Do you object to that?

Major Graham Pole: In paragraph 65 do you not get—

"The view was expressed in one quarter in regard to this as to other 'reserved subjects' that the administration of it should be vested in a 'Minister' responsible not to the Legislature but to the Governor."

Tharrawaddy U Pu : I am talking about paragraph 63.

Chairman : I think we must take paragraphs 63, 64 and 65 together, more or less, because they balance each other.

U Ba Si : In paragraph 64, at the 6th line from the bottom of the page you say—"be carried out by the Governor." I think that should be "by the Government."

Chairman : "The view was expressed that it would be advantageous"—is that what you mean?

U Ba Si : No; it is before that. You say that the administration of these areas might well be carried out by the Governor.

Chairman : I see. The passage is:

"... the general sense of the Committee was that the administration of these areas, the inhabitants of which, though akin to the Burmans, are admittedly backward and not yet fitted for a share in representative democratic government, might well be carried out by the Governor (and in this sense form a 'reserved subject')."

U Ba Si : I think the word "Governor" should be altered to "Government."

Major Graham Pole : If you do that then the words in brackets will have to come out.

Chairman : Suppose we say "might well be carried out by the Governor (and in this case form a 'reserved subject') or alternatively by the Government."

U Ba Si : Just say "by the Government."

Chairman : I must put both views. That would put your view would it not?

Major Graham Pole : I think it would be all right if you added after the brackets the words "by the Government."

Sir O. de Glanville : That, I think, was not the general view. Adding those words there would not do. Would it not meet the case if you added words to paragraph 65. I think 64 is a correct record of what took place.

U Ba Pe : You say in paragraph 64 "the general sense of the Committee was that the administration of these areas." I think it was not the general sense.

Major Graham Pole : Paragraph 63 rather gives away the case for 65 to begin with.

U Ba Pe : I say there was not general agreement.

Chairman : I want to get this clear because there are a good many details in it. It is not quite easy to make at once the amendment and the consequential amendments that must follow in these paragraphs. Paragraph 64 begins:

"This term 'Excluded Areas' was intended by the Statutory Commission."

Do you mean that you did not agree with the Statutory Commission? What we say in paragraph 63 is:

"It was generally agreed that, as was recommended by the Statutory Commission, the areas in Burma now known as

' Backward Tracts ' should in future be termed ' Excluded Areas.' For the purposes of the Government of India Act these areas include the Federated Shan States."

Is what you mean to say that it was not generally agreed that " as was recommended by the Statutory Commission the areas in Burma now known as ' Backward Tracts ' should in future be termed ' Excluded Areas ' " ? What do you want to put in? Shall I say that there was a division of opinion on that point?

U Ba Pe: There is no necessity for " Excluded Areas " in Burma.

Chairman: There was division of opinion. Is that what you want expressed there?

U Ba Si: Yes, there was division of opinion.

Tharrawaddy U Pu: Not among the Burmese Delegates but in the Conference.

Chairman: Division of opinion of course means in the Conference. I do not want to say that every time. It is well understood. There are two or three amendments which will have to be made here and I think we must have a little re-drafting done.

U Ba Si: Paragraphs 63, 64 and 65 should be taken together.

Chairman: Yes, it is a little difficult to alter it straight off but we will have the paragraphs re-drafted to meet that point.

We now come to the section headed " Defence."

U Ni: It is stated in the first paragraph of this section that the Committee dealt with this question on the understanding that the principle underlying the Prime Minister's statement of policy in regard to India should be applied to Burma. For my own part I never fettered myself by any declarations which might have been made at the Indian Round Table Conference, and, as Your Lordship indeed requested, I proceeded with quite a free mind on this question. I stated that Defence should be placed right from the beginning in the hands of a Minister responsible to the Legislature.

Tharrawaddy U Pu: That is the opinion of all the Burmese members.

Chairman: Of all the Burmese members? Do you want to go back on what was declared in the case of India, that Defence should be a reserved subject, and do you ask that British troops should be handed over in Burma to a Burmese Minister?

U Ni: That is our view, and it is entirely omitted from this section.

Chairman: You are of opinion that Defence should not be a reserved subject, but should be placed in the hands of a Minister who would be in entire charge of British troops in Burma?

U Ni: Quite so.

Chairman: You really wish me to put that down in the Report?

U Ni: Yes.

Chairman: You say that that was said, and you wish it recorded?

U Ni: Yes.

Chairman: It would have to be recorded at the end, that the views set out in this section were not agreed to by one of the Delegates,

who considered that Defence should immediately and without reservation be placed under the control of a Burmese Minister?

Tharrawaddy U Pu : That is the opinion of the Burmese Delegation. Everybody wants the Army transferred immediately, but we know that His Majesty's Government would not do that.

Chairman : I can say at once that there is not the slightest chance of anything of that kind being done.

Tharrawaddy U Pu : We know that, and it is in order to effect a compromise that we put forward the period three to five years which I mentioned in my speeches. It was in order to meet the views of His Majesty's Government that instead of an immediate transfer we stated our willingness to agree to such a period; but the view of the Burmese Delegation is that the control of the Army should be placed under the control of a Burmese Minister immediately.

That would not be granted, we know, by His Majesty's Government. However, we wanted to effect a compromise; therefore we came from "immediately" to three to five years."

Chairman : But where is all that?

Tharrawaddy U Pu : In the discussion.

Chairman : In your speech?

Tharrawaddy U Pu : Yes.

Chairman : But then that is not the view of all the Delegates.

Tharrawaddy U Pu : I submit all the Delegates have the same view.

Chairman : But let the other Delegates have a chance of expressing their views. I do not think that was expressed by you, U Ba Pe?

U Ba Pe : Yes, I said there should be no reserved subjects at all, only the Governor should have special powers. I made that suggestion, you will remember.

Chairman : Well, that is a wider thing altogether, is it not?

Sir O. de Glanville : My Lord, I think U Ba Pe and others all admitted that there would be a transitional period during which the Governor would have complete and entire control of the Army, Foreign Affairs, and certain other subjects.

Tharrawaddy U Pu : Yes, but of course for the reasons stated just now.

U Ni : That does not apply to me.

Chairman : We are now dealing with Defence. If you have a general statement, I think it is much better to put it over the whole subject in a paragraph by itself.

"The Committee addressed itself to the consideration of Defence, on the understanding that, applying to Burma the principle underlying the Prime Minister's statement of policy in regard to India, the subject is one that in existing conditions must be reserved for administration by the Governor."

You say you would disagree with this?

Tharrawaddy U Pu : Yes.

Chairman : The whole of these paragraphs depend upon those words: "in existing conditions." The Committee did address itself on that understanding. I think it is possible to say at the end:

“ certain members of the Committee held the view that from the commencement of the new Constitution the Army should be completely transferred in every respect to a Burmese Minister. ” Is that it?

Tharrawaddy U Pu : Yes.

Chairman : It seems to me to be very difficult to alter anything in paragraph 66, because the Committee did address itself on that basis, and these particular paragraphs that follow are on that basis. I think we can say at the end that some members of the Committee did not accept that at all.

Tharrawaddy U Pu : I think it should be stated at the beginning.

Chairman : It does not matter whether it is stated at the end or not. This is a fact, that the Committee did address itself to the consideration on the understanding that the subject is, under existing conditions, to be reserved for administration by the Governor.

Tharrawaddy U Pu : We do not admit that statement, My Lord.

Chairman : Yes, but I am only telling you that is a fact, and it is no good your contradicting it, because that is the basis on which we discussed it. Apparently you wish to say that you think that the whole of Army and Defence, including the Navy—do you want to include the Navy?

Tharrawaddy U Pu : No.

U Ni : The Army only.

Chairman : And Air Force and everything?

U Ni : That might be dealt with by the technical advisers.

Chairman : If you want to say that in your view at this moment, or at the setting up of the new Constitution, the whole of the Army should be transferred to a Burmese Minister, I think much the simplest thing is to insert it at the end of paragraph 71, because the whole of the discussion recorded in paragraphs 67 to 71 was conducted on the basis that the Army was to be a reserved subject, and therefore those paragraphs follow from that. I think you can say if you like, that, in the view of certain Delegates, the Army should, on the setting up of the Constitution, immediately be transferred to the Burmese Government and placed under the control of a Minister.

U Ni : My Lord, so far as I can remember, at the time there was no particular understanding, because no general statement whatever was made.

Lord Lothian : But surely was not the position this, that this discussion took place in the light of a statement made by the Chairman, and confirmed by myself, as to the basis upon which this Conference was discussing it, namely, that there would be in the view of His Majesty's Government certain reserved subjects? The discussion took place on that basis, and, as I understand, it is the purpose of this paragraph to say that.

As the Chairman says, there is no objection to any member saying at the end that he does not accept that individually. I am not sure that it is very wise, from the point of view of Parliament, to stress the demand for what, in the view of the average person over here, is outside the realm of practical politics; but, of course, that is entirely a matter for an individual Delegate upon which to make up his mind.

This paragraph, as I understand it, is simply meant to record that the discussion took place on this basis, because that basis was more or less laid down as the limit to which His Majesty's Government could at this stage go.

Tharrawaddy U Pu : But the Prime Minister's statement has not yet been accepted by either India or Burma; you have to remember that. I believe Lord Lothian also made a statement on that, and I believe My Lord Chairman also made a statement as regards this point; but then that statement was not accepted by us at least. You say that the Prime Minister's statement should be the basis of discussion. We did not say that we would accept that as the basis.

Lord Lothian : If I may say so, I think there is a slight misunderstanding here. This paragraph does not say you accepted it, because you can put in a reservation at the end saying you did not accept it. What it said was that the discussion took place on that assumption. It does not mean that you necessarily accepted the assumption.

Tharrawaddy U Pu : How can you say that :

"The Committee addressed itself to the consideration of Defence on the understanding that, applying to Burma the principle underlying the Prime Minister's statement of policy . . . " ?

Chairman : Shall we say " in the light of the statement " ?

Tharrawaddy U Pu :

" . . . the understanding that, applying to Burma the principle underlying the Prime Minister's statement of policy in regard to India, the subject is one that in existing conditions must be reserved for administration by the Governor."

Chairman : I quite understand your contention, but, as I say, the place to state that is not in paragraph 66, because that is merely a statement of fact. I am not quite sure where it should go in; possibly at the end of paragraph 71 we could do it.

There is a suggestion made by Lord Mersey to begin the paragraph in this way :

"Some Delegates were of opinion that the control of British troops in Burma should at once be handed over to a Burman Minister,"

and then go on

"but the Committee addressed itself to the consideration of Defence,"

and so on.

Lord Mersey : Then you get it in a very prominent position so that everyone can read it and consider all its implications.

Tharrawaddy U Pu : Very well, My Lord. Then might I ask Your Lordship to amend the word " some " ? Cannot you use a better word than " some, " and make reference to these twelve men ?

Chairman : I have exhausted the resources of the English language, almost !

Tharrawaddy U Pu : Are you going to use " some " in reference to all these twelve Burmese Delegates ?

Chairman : But I do not think that is the view of those gentlemen as expressed. They did not say that immediately the Constitution was

established the Army, including the British Army, should be handed over to a Minister.

Tharrawaddy U Pu: I do not know to whom Your Lordship is alluding. U Ba Pe is the leader of that group.

Chairman: I am not alluding to you, if you do not mind my saying so, though I often am, but I am now alluding to U Ba Pe and his friends. Will you allow them to answer? They can answer better than you can for themselves. I do not think they suggested that immediately the Constitution was set up, Defence should be immediately handed over to the control of a Minister responsible to the Burmese Legislature. I do not think you suggested that?

U Ba Pe: I have already explained my position.

Chairman: I think you suggested that Defence should be controlled by a Minister who, in those matters, should be responsible to the Governor. That is your point, I think, and it is quite a different point, from the one made by Tharrawaddy U Pu. He wants, I understand, immediately the Constitution is set up, Defence and the Army to be handed over to the control of a Burmese Minister responsible to the Legislature. That is your point, is it not?

Tharrawaddy U Pu: Does Your Lordship mean to say that U Ba Pe—

Chairman: Just one moment.

Tharrawaddy U Pu: Allow me, please, to ask a question. Do you understand that neither U Ba Pe for himself nor on behalf of his Party demanded that Defence should be handed over to the future Government of Burma immediately? Do you mean to say that he did not ask for that?

Chairman: No, if you would only listen to what I said. I said there was a distinction between the views. Your point was that, immediately the Constitution was set up, Defence should be handed over to a Minister responsible to the Burmese Legislature. That was your point?

Tharrawaddy U Pu: That is true.

Chairman: As I understood U Ba Pe, his point was a different one. He said it should be handed over to the Minister, but that that Minister, in respect of Defence and the Army, should be responsible to the Governor and not to the Legislature. I think that was your point.

U Ba Pe: No, My Lord, not quite. He will be responsible to the Legislature as regards policy, Burmanisation of the Army, and so on, but the actual control and use of the Army will be vested in the Governor. The Minister would act under the direction of the Governor.

Chairman: That, you see, is a different view. And therefore it would not be true to say that a great many were of your opinion. Shall we say:

“ Some Delegates were of opinion that the control of British troops in Burma should at once be handed over to a Burman Minister ”?

Does that express your view?

Tharrawaddy U Pu: Yes.

Chairman : Then we go on, " but the Committee addressed itself, " and so on.

U Ni : I foresee a condition where there may be some troops other than British troops.

Chairman : Well, does that not mean the Army?

U Ni : Yes.

Chairman : I mean to say, if you are going to hand over British troops, much more would you hand over Burman troops. I want to bring out the point in the strongest form as contended by Tharrawaddy U Pu in order that Parliament may understand what the proposal was quite sharply. Is that agreed to, then?

Then we get on to this being discussed on that basis?

Now paragraph 67.

Dr. Thein Maung : Paragraph 67; in the last sentence . . .

Chairman : "It is not contemplated that Burma should undertake " —is that what you are on?

Dr. Thein Maung : Yes, paragraph 67, the last sentence. There it is written :

" . . . and there was no opposition to the suggestion that some contribution to the cost of British Naval defence should be made by Burma."

That is not correct.

Chairman : There was opposition, you say?

Dr. Thein Maung : We never agreed to pay that. We said there was no need for a navy for Burma, and what we said was that a self-governing Burma would consider sympathetically that side of the question. We will consider that only when we have got full self-government, but now we have no real control.

Chairman : You say there was opposition to the suggestion. Is that what you want to say? The paragraph should read " there was some opposition to the suggestion that some contribution to the cost of British Naval Defence should be made by Burma."

Dr. Thein Maung : There was some opposition. It is not true to say that there was no opposition.

Chairman : You mean that Burma wants to get the benefit of British Naval defence without contributing.

Dr. Thein Maung : When we have control we will pay, but when we have no control we cannot pay.

Major Graham Pole : Your want to add to it " until Burma has full self-government."

Dr. Thein Maung : Yes.

Chairman : We had better limit ourselves to the thing immediately before us. The simplest thing to do is to make it " there was some opposition " to the suggestion.

Dr. Thein Maung : When we have self-government. That is what I said. What I said was that we would pay something when we have self-government.

Chairman : But there was opposition to the suggestion that a contribution to the cost of British Naval defence should be made by Burma.

Tharrawaddy U Pu: That will not be enough. We agree to pay when we get full settlement.

Chairman: But we are dealing with the situation as it is at present, and the situation at present is that you do not want to contribute to the British Navy. What you might do some time hence is a matter on which it is of little use to speculate. You might not be the Ministers when the occasion arises.

Lord Mersey: Is the passage to read like this: "It is not contemplated that Burma should undertake her own Naval defence, for she must rely on the British Navy, but there was opposition to the suggestion that some contribution to the cost of British Naval defence should be made by Burma"?

Mr. Ohn Ghine: The phrase ought to be: "some immediate contribution."

Tharrawaddy U Pu: I support the suggestion made by Major Graham Pole, that the words should be added: "until Burma has achieved full responsible government". Otherwise, if those words are not put in, we shall be made to appear foolish and unreasonable in the eyes of the public by refusing to contribute anything for the use of the British Navy. As sensible persons we cannot refuse to contribute. We must make some contribution for the use of the Navy. But before the achievement of full self-government we refuse to pay anything.

Lord Mersey: It is an annual contribution which is required for the Navy.

Tharrawaddy U Pu: That makes no difference.

Lord Mersey: It makes a good deal of difference to the people who have to pay the sailors.

Tharrawaddy U Pu: The actual contribution, of course, will have to be settled by both the Governments when the time comes to use the Navy. We do not deny the responsibility for paying a certain amount of contribution when the time arrives that we have achieved full responsible self-government.

Chairman: Some such phrase as, "There is some opposition to making a contribution under present circumstances" might cover the position.

Tharrawaddy U Pu: I ask Your Lordship to make it plain in the Report that we are not unreasonable in this matter.

Chairman: We can make it read: "But some Delegates thought that the contribution to the cost of British Naval defence should be deferred—"

Tharrawaddy U Pu: "Until Burma has achieved full self-government."

Sir O. de Glanville: In other words, until they get control of the Navy under a Burmese Minister.

Tharrawaddy U Pu: No, no.

U Su: The words: "It is not contemplated that Burma should undertake her own Naval defence" are misleading. We want to defend our own country with our own Navy. So I think it is better to omit this, because it must mean we never want to go out to sea and fight.

Chairman: Well, shall we say: "For the present she must rely on the British Navy." That would meet it, would it not?

Tharrawaddy U Pu: Yes, that is better.

Chairman: I think that will meet it. Now paragraph 68.

U Maung Gye: With regard to the contribution to the cost of the Navy, what were the exact words used by Lord Winterton? Those words may be reproduced.

Chairman: I cannot remember what his words were.

U Maung Gye: I believe he said a self-governing Burma should consider sympathetically the question of contributing towards the cost of the Navy.

Chairman: "For the present she must rely on the British Navy."

U Maung Gye: I suppose, as the suggestion was actually made by Lord Winterton, there was no opposition from any quarter of the Committee.

Lord Mersey: But surely it is a different thing to suggest that a self-governing Burma should make a contribution in the future to the cost of the Navy, but that a Burma which is not entirely self-governing should not make a contribution to the Navy while she is benefiting from it. They are two distinct suggestions.

Major Graham Pole: It is really a lever for self-government.

Chairman:

"It is not contemplated that Burma should undertake her own Naval defence, for that she must rely on the British Navy." Then I think you can say: "But there was some opposition to the suggestion that a contribution to the cost of British Naval defence should be made by Burma." Do you object to my phrase? "But some Delegates suggested that the question of a contribution to the cost of British Naval defence should be deferred until Burma has attained full self-government."

U Maung Gye: What are the words in the Report?

Chairman: You mean Lord Winterton's speech?

U Maung Gye: Yes.

Chairman: It is rather general.

U Maung Gye: The suggestion about the contribution came from him.

Chairman: You mean nobody else wants to make a suggestion about a contribution? If it is true that you do not want even to suggest a contribution, I will take it out, if that is really the feeling. Let us be quite clear about it. The suggestion here is that there was no opposition that a contribution to the cost of British Naval defence should be made by Burma. That is a definite statement. Now I understand these gentlemen on my left to say they do not want to make a contribution. Well, if they do not want to do so, let us be quite clear about it, and I will say so.

"But it was strongly suggested by the Delegates that no contribution to British Naval defence should be made by Burma"?

Dr. Thein Maung: "—until the attainment of self-government."

Chairman : But we cannot deal with something which happens at some future time. We are dealing with the present Constitution, which we are trying to frame, and under that Constitution you say there should be no contribution made by Burma. I do not mind which way it is put; I only want to know what you want.

Tharrawaddy U Pu : But we should look very foolish in the eyes of the public; it would read as if we refuse to pay for the Services we use.

Chairman : No, I do not think it would look very foolish; it would look rather canny on the whole: you say you want to be protected by the British Navy, but under present circumstances you do not want to pay for it.

Tharrawaddy U Pu : But we want Your Lordship to explain our position, otherwise we shall look very foolish. It would look as if the Burmese people refuse to pay for the Services they use.

Chairman : Well, can I put it in another way: " But some of the Delegates held that no contribution to the cost of British Naval defence should be made by Burma until Burma attains full self-government"?

Tharrawaddy U Pu : That is what I suggest.

Chairman : I am only making various suggestions to see what is the feeling.

Tharrawaddy U Pu : Well, that is the feeling.

Chairman : I see.

Miss May Oung : May I make one suggestion, My Lord?

Chairman : By all means.

Miss May Oung : Could you not say that there was no opposition to the suggestion that a self-governing Burma should consider making a contribution? That is what Lord Winterton said in his speech.

Chairman : No; you must deal with the present position.

Miss May Oung : This is a Report of the proceedings of the Committee, as I understand. That is what he said in the Committee.

Major Graham Pole : That was the only place where the Navy came up, I think.

Miss May Oung : Yes, that was the only place in the Committee where we discussed the Navy.

Chairman : " It was not contemplated that Burma should undertake her own Naval defence; for that she must rely on the British Navy." Then what is your suggestion?

Miss May Oung : I said there was no opposition to the suggestion that a self-governing Burma should consider the making of a contribution. All Lord Winterton suggested was that we should consider it in the future.

Chairman : That is hardly worth putting in.

Miss May Oung : But that is what he said.

Chairman : I dare say he said it, but my view is that it is not worth while, in a Report of this kind, putting in that suggestion. It is all very well to say that a self-governing Burma would be prepared to

contribute, but to say that the representatives of a self-governing Burma would be prepared to consider it means really nothing at all.

Major Graham Pole: That is what we have in the records.

Chairman: I entirely agree it is in the records, but I do not want to put into this Report any meaningless statement by any Delegate.

Major Graham Pole: That is what I think we have done.

Chairman: Then we had better cut it out. We might say:

“ It is not contemplated that Burma should undertake her own Naval defence; for that she must rely on the British Navy.”

Then we will end there.

U Ba Pe: The statement that there was no objection is not correct.

Chairman: Very well, let us leave it out; that is the best thing; because, after all, it is not of the greatest importance.

U Ba Pe: It is true that Burma is willing to pay her share when she is in a position to administer her own affairs. I will just read out a part of the speech where it was made very clear: (I am reading from page 71 of the record of the 8th Meeting of the Conference, held on the 16th December, 1931):

“ Lord Winterton pointed out that it is not fair that the British tax-payers alone should bear the burden whenever there is a crisis in the Empire. I am quite in agreement with him as far as the principle is concerned, but there is one point which I think I ought to mention. So long as Burma is not dependent on herself, so long as she does not enjoy self-government, for so long it is not fair for Burma to share in anything so far as this matter is concerned, because she has no say in the matter; the whole thing is run from Whitehall here in London. If Burma is going to enjoy responsible self-government she must have her Army and she must have control of the policy governing the defence of her country; and in that case it is up to her to bear her share in a crisis affecting the whole Empire.”

Chairman: I again ask; what is the amendment you suggest?

Lord Mersey: That really would mean that Burma would not make any contribution of any kind to the Imperial Government until she had what she considered complete self-government. That is the inference.

U Ba Pe: But there is this difference, that at present, Burma as part of India is contributing towards the Navy, but it is not done with the consent of the people. It must be done with the consent of the people and that consent can only be obtained when Burma has self-government.

Chairman: Then should we put it “ It is not contemplated that Burma should undertake her own Naval defence; for that she must rely on the British Navy ” and end the sentence there?

Tharrawaddy U Pu: You say “ It is not contemplated that Burma should undertake her own Naval defence.” Is that for the present?

Chairman: It goes on “ for that she must rely on the British Navy.” There we come to an end and the painful subject of contributions will be omitted.

Miss May Oung: Not painful.

Chairman: An awkward subject anyway. Now we will pass on to paragraph 68.

U Ni: Is paragraph 68 to be read in the light of the previous paragraph?

Chairman: Yes, the whole of paragraphs 67 to 71 will be read in the light of what is said at the beginning.

U Ni: Your Lordship has not recorded that, in the view of some of the Delegates, Defence might be entrusted to a non-official Burman Minister.

Chairman: That has been put at the commencement. That governs all these paragraphs. If we can take paragraphs 69, 70 and 71 then we can go on to the next subject. The next subject is the "Ministers" and paragraph 72 deals with "The Council of Ministers, its Appointment and Composition." If there is nothing to be said on that paragraph, I will go on to paragraphs 73 and 74.

Tharrawaddy U Pu: Would it not be better to give us an opportunity to read this through?

Chairman: I really think that we must expect the Delegates to have read through this statement. I asked them how long they would take to study it, and they said three days, and we might assume that they have done so.

Tharrawaddy U Pu: It is true that we have read and studied it, but we have not got it by heart.

Chairman: I only want you to know the contents.

The next paragraph, No. 74, deals with "Joint Responsibility," and it is followed by paragraph 75, dealing with the "Circumstances in which the Ministry should relinquish Office," and paragraph 76, the "Position of the Governor."

U Ni: In view of the fact that in paragraph 72 you speak of the term "Prime Minister" as preferable would you not use it instead of "Chief Minister" in paragraph 76?

Chairman: The words are only put in as alternatives.

We can pass to paragraph 77, dealing with the "Administration of Reserved Subjects"; paragraph 78 with "Rules for Conduct of Executive Business"; and paragraph 79, with "Remuneration of Ministers." We next come to the "Governor's Powers," paragraph 80.

Tharrawaddy U Pu: Paragraph 80 begins, "It was agreed." Does that mean it was agreed by the whole Conference?

Chairman: That was the idea.

Tharrawaddy U Pu: I do not accept that.

Chairman: I am sorry to hear you say that, because if that is so I shall have to cut out the one conclusion which I thought was unanimous, the one which is set out as Conclusion No. 8. It would mean that I would have to cut out from the Conclusions the biggest Conclusion at which we have arrived. It would really nullify this Conference. If you wish to do that the responsibility is very heavy upon you.

Tharrawaddy U Pu: We came here to discuss the future Constitution of Burma. We have not yet accepted the safeguards as stated by the Prime Minister. We want to know what safeguards will be proposed by His Majesty's Government ultimately. Until then, we do not commit ourselves to the acceptance of the safeguards proposed in the Prime Minister's declaration. We came here to join in this Conference without prejudice to our right to reject any Constitution that might be evolved.

Chairman: But you could say all this in your speech in the Plenary Session. That would be the time for a general statement.

Tharrawaddy U Pu: I cannot be a party to this Report if it says that it was agreed by the whole Conference without any difference.

Major Graham Pole: But does Tharrawaddy U Pu notice that it must be accompanied by safeguards necessary in the interests of Burma?

Tharrawaddy U Pu: Even then I will wait and see what will be evolved as a result of this Conference and what His Majesty's Government may decide eventually. Then we will consider the decision, and if we can, we will say: "Yes, we will separate from India"; or we will say: "No."

Mr. Wardlaw-Milne: May I say this matter raises questions of a very important kind. I have accepted this paragraph, and I have read this paragraph with as much care as any other paragraph in the Report, because I thought it was the unanimous decision of the Conference. If we are now to be faced with the fact that there is a section, large or small, of this Conference which says: "We do not believe it is desirable to transfer powers to Ministers responsible to the Legislature accompanied by certain safeguards"; then in my mind the whole question is re-opened, and I want to say, in that case, I am perfectly free. If that attitude is taken, I am perfectly free to consider the whole question from the beginning as to whether a transfer of power is safe or not. I want to make my position perfectly clear at once. I am prepared to accept the Prime Minister's declaration and to try and carry this out, as I believe we intend to carry it out in India, and as I believe we shall carry it out in India, whatever happens, with the goodwill of the people of India. But if the whole situation is altered by a decision of any part of the Conference that they do not believe that a transference of power with safeguards is desirable at all, then I consider myself perfectly free to reconsider the whole matter.

Tharrawaddy U Pu: I am very sorry but it appears that Mr. Wardlaw-Milne has misunderstood my whole position. I have made my position quite clear from the very start by repeatedly telling Your Lordship and the Members of this Conference that we will not accept anything less than full responsible government on the lines of Ireland and other Dominions within the Empire. I have stated that very clearly. However, in order to see whether we can arrive at a compromise with His Majesty's Government with regard to the future Constitution, I said, without prejudice to my right to reject any Constitution that may be evolved as a result of this Conference, I will join in the discussion at this Conference, and then we will decide, after a Constitution has been evolved, whether we can accept such a Constitution or

not. Then we will say whether we will agree to the separation of Burma from India or whether we would rather remain within India until such time as we get a satisfactory Constitution. That is our position and I have made my position quite clear. I did not say I would accept a Constitution on the lines of the declaration made by the Prime Minister, with certain safeguards; I have never said that. I was very careful not to say a word as to the acceptance of such a Constitution on the lines of the Prime Minister's statement. My position was quite clear and is still clear: I reserve my right until the last moment.

Chairman: Well, you will make your statement in fact at the Plenary Conference, is that right?

Tharrawaddy U Pu: At the Plenary Conference and also at the beginning of this full Committee I stated to Your Lordship—

Chairman: But I say you reserve your right to make your statement in the Plenary Conference?

Tharrawaddy U Pu: Yes.

Chairman: But do not let us, subject to this minor business, make alterations in the general acceptance of this position of the Prime Minister's statement; otherwise it renders this Conference futile.

Tharrawaddy U Pu: It may, My Lord, but when Your Lordship says here it was agreed that there should be safeguards necessary in the interests of Burma, I cannot be a party to that statement.

Chairman: Yes, but you can make that statement in the Plenary Conference; you can say that those statements were made and safeguards considered, but you can be a party to nothing at all. You can state that: that you agree to nothing.

Tharrawaddy U Pu: My Lord, I am present here, you see, at this stage, when this Report is under discussion. When the time comes to consider this paragraph 80—

Chairman: Well, we are considering it now.

Tharrawaddy U Pu: When you say we agree, I submit I cannot be a party to this paragraph.

Chairman: Very well; you have made your protest; you tell us you cannot be a party to it.

Tharrawaddy U Pu: Why not say here that certain Delegates were opposed to it? Then only will it be correct. Otherwise it will not be correct. It will read as if I am also a party to it. That is what I submit to Your Lordship. U Chit Hlaing, U Tun Aung Gyaw and I cannot be a party to such a statement.

Lord Lothian: I understand your objection is still conditional; it does ultimately depend on what the Prime Minister's statement is?

Tharrawaddy U Pu: I mean what the Prime Minister's statement will be.

Lord Lothian: Yes, it is only conditional; you may accept this.

Tharrawaddy U Pu: Well, I may or may not. I do not say that I will not, but at present I cannot be a party to it; I cannot say definitely that I accept it.

Chairman: Can we say that "it was provisionally agreed"?

Tharrawaddy U Pu: You may say that at present I cannot commit myself to this statement. Your Lordship will be pleased to say that, and my friends also here, the anti-separationists.

Mr. Campagnac: I think that Tharrawaddy U Pu only wants to reserve to himself the right to say whether the safeguards proposed are necessary or not.

Tharrawaddy U Pu: No, no.

Mr. Campagnac: You do not want any safeguards?

Tharrawaddy U Pu: At present I cannot commit myself to the necessity for any safeguards.

Lord Mersey: Would it do if you put in, "it was agreed except by a few Delegates who were unable to commit themselves to anything"? Would that meet your point?

Tharrawaddy U Pu: I am sorry, My Lord, I cannot be a party to such a statement. You can say that it was agreed . . .

Lord Mersey: " . . . except by those Delegates who were unable to commit themselves to anything."

Tharrawaddy U Pu: " . . . except the five anti-separationists," you might say.

Chairman: " . . . except by certain Delegates who did not wish to express a final opinion until they had heard the Prime Minister's statement." Would that do?

Tharrawaddy U Pu: At present I cannot agree to any safeguards; that is our position.

Chairman: Yes; I say "It was agreed except by certain Delegates who did not wish to express a final opinion until they had heard the Prime Minister's statement."

Tharrawaddy U Pu: Why not say "who are anti-separationists"—only two words and that is finished.

Chairman: This question was discussed at the beginning of the Conference. I then said we must proceed in this Conference and discussion on the basis that Burma is to be separated from India. If we proceed on the basis that she is to remain a Province of India we have nothing whatever to do at this Conference, and do not let us waste our valuable time by talking about many things that are perfectly useless.

Tharrawaddy U Pu: That is quite true.

Chairman: We assumed that Burma was to be separated, and therefore we must surely continue on that hypothesis even though there may be Burmans who do not want it.

Tharrawaddy U Pu: We must go on with the discussion as treating Burma for the present on the assumption that Burma is a separated country, but you have said very clearly that my taking part in the discussion would not preclude me from bringing up the question of separation if the Constitution evolved as a result of the discussion at this Conference is not satisfactory.

Chairman: Certainly I said that, but that was to be said in Plenary Conference, not in the course of the consideration of these details. It is not our business to go into these general

questions at this stage. When you make your speech in the Plenary Meeting, then you can say what you like.

Tharrawaddy U Pu: I do admit that Your Lordship is right in that, but Your Lordship did not say that in treating Burma as a separate country you would also assume that there must be certain safeguards in the transitional period. You have not put that at all and we have not agreed to it.

Mr. Wardlaw-Milne: May I say that I think Tharrawaddy U Pu is not strictly right in saying that? I think he must have forgotten exactly what happened. The Chairman made a statement early in the proceedings which did deal with these very safeguards. Therefore, I do not think it is strictly correct to say that the point was not raised because it was very definitely raised. There is a further point which we ought to get perfectly clear. It is undoubtedly the case that there are Delegates here who hold the view that Burma should not be separated from India. But as the Chairman said, from the very first we are proceeding with this Conference on the understanding that Burma is to be separated. If the eventual decision, for reasons which can be argued and decided elsewhere, is that Burma is not to be separated then the whole of this work is useless, but that is another matter. Delegates are quite entitled whenever and wherever there is a suitable occasion to put the view, that Burma should not be separated or should be separated under totally different conditions; but the question we are discussing here is the question which was settled at the very beginning—that is, the Constitution which should evolve for a separate Burma. Therefore it does not seem to me, My Lord Chairman, that it is at all proper that any question of differing views regarding separation or non-separation should appear in this Report. What we are discussing is the question of a Constitution for a separated Burma. Therefore no one taking part in this Conference should ask to have matters regarding anti-separation put into a document which has separation as the foundation for every word of it. It is perfectly right and proper that views on that matter should be expressed at the Plenary Session or on any other occasion which may be suitable, but it is not right to add anything of that kind to this Report because the question whether or not Burma is to be separated does not arise. That does not alter the right of Delegates to put forward elsewhere the case that Burma should not be separated at all.

Tharrawaddy U Pu: Does Mr. Wardlaw-Milne mean to say that members of the Conference should only accept the Constitution evolved as a result of this Conference? You do not mean to say that members of this Conference must be understood to have accepted the safeguards proposed by the Prime Minister.

Mr. Wardlaw-Milne: No, they have not been mentioned.

Tharrawaddy U Pu: We are not bound by the Declaration of the Prime Minister and not bound by any Constitution that may be evolved as a result of this Conference. You stated we were agreed. That is a mis-statement. I appeal to Your Lordship to be pleased to say that we are here as five anti-separationists and are not committed to that statement.

Mr. Wardlaw-Milne: I am trying to suggest that you entirely retain your right to argue that Burma should not be separated, but I suggest that you are to decide, assuming Burma is separated and has a separate constitution, that there must, in the interests of Burma, be certain safeguards.

Tharrawaddy U Pu: No.

Mr. Wardlaw-Milne: If there are to be no safeguards at all then we go back to where we started.

Chairman: I want to say to Tharrawaddy U Pu that I think he is taking a great responsibility upon himself. I had hopes that we had arrived at certain conclusions. If this Conference could arrive at certain conclusions it would have a great effect on His Majesty's Government, and therefore, I ask him very solemnly indeed to pause and hesitate before knocking to pieces the one thing on which I thought we were all agreed—subject to details, if you like—the general acceptance of safeguards.

I think you ought to consider that very carefully. I am not speaking for the Government, but, if no safeguards or responsibility with safeguards were agreed to, what I should feel if I were in their place would be this: "Well, we have done all we can, and we do not think we can meet any further demand." May I put in in this way? If a Constitution with safeguards is proposed for India, on what ground is Burma going to say, "I am not going to have any of the safeguards proposed for India"? Is that a reasonable proposition? It is entirely for you to say. But I warn you that if you break the unanimity of this Conference you are taking upon yourself a heavy responsibility.

Tharrawaddy U Pu: I am not going to break up the unanimity.

Chairman: But that is what you are doing if you say there are to be no safeguards. You are breaking away from the Prime Minister's statement and the views of the other Delegates at the Conference, and it becomes impossible for me to say, what I had hoped to say, that there is unanimity in this respect.

Major Graham Pole: I would point out that the safeguards mentioned here are safeguards necessary in the interests of Burma, safeguards that Burmans in Burma would think necessary or advisable for a transitional period.

Lord Mersey: May I make another suggestion to Tharrawaddy U Pu? Perhaps too much attention is being paid to this point. At the opening of the second paragraph in the Report it is stated, "before proceeding to consider the structure of the Legislature for a Burma separated from India . . ." and every paragraph that follows, right to the end of the Report, is governed, certainly to my mind, by that hypothesis. The whole of the Report merely depends upon a Burma separated from India, and as it would be very cumbersome to preface every individual paragraph by a sentence beginning, "In case Burma is to be separated from India," this single remark is made in the preface to govern the whole. I imagine that it will be taken by the whole Conference and by every sensible person who reads the Report to mean that the conclusions set out are based on that preliminary condition. Therefore Tharrawaddy U Pu, as he is

at present against the separation of Burma from India, is not in any way implicated in the various minor conclusions that are arrived at in the different paragraphs of the Report.

Tharrawaddy U Pu: I have not said a word in reference to minor matters in the Report. I join hands with you all in the desire to finish the matter as quickly as possible. But here is a question of principle. You say, at the beginning of paragraph 80, that "It was agreed."

Lord Mersey: It was agreed, on the hypothesis that Burma is separated from India.

Tharrawaddy U Pu: Yes, if it is separated from India. But at present I cannot commit myself to such safeguards. I have demanded full responsible government. I have stated that nothing short of full responsible government would satisfy us. It was on that understanding that I joined in the discussions to see if it would be possible to evolve a Constitution acceptable to us. That is my position. I have made it very clear. If we can make a Constitution which we think suitable for Burma at present we would accept that Constitution and agree to the separation of Burma from India. The fact that I have come into this Conference and joined in the discussions does not prevent me from bringing forward the question of separation. If the Constitution is not acceptable, we will say, "We are sorry. We cannot agree to the separation." And I must not be held to have committed myself to accepting the Constitution owing to the fact that I have participated in this Conference. On that understanding, and on that understanding only, we came in and agreed to join in the discussion; but now it is said: "agreed to the safeguards." I have not said a word to suggest that I agree to the safeguards, that in the case of Burma being separated from India there should be certain safeguards during the transitional period. I will not commit myself to that statement in this Conference here; I am not going to do that at this stage. I may remain quiet for the time being and wait until such time as a new Constitution is evolved, and I will see whether the safeguards proposed are such safeguards as we can agree to; then the matter ends.

Major Graham Pole: Would it meet Tharrawaddy U Pu's point if it says that it must be accompanied by such safeguards, if any, as are necessary in the interests of Burma?

Tharrawaddy U Pu: No; I will not commit myself at this stage to any safeguards.

Chairman: No; I think the position is clear; he will not agree to any safeguards at all; he puts himself really outside the Prime Minister's statement. I was going to say, in addition to what Mr. Wardlaw-Milne has said, besides the general proposition about separation or non-separation and the right to speak, I was pressed and have been pressed several times during the course of the discussion, and the Government was pressed, to say what their view was. Well, I resisted that for some time, because I thought it was hardly reasonable to ask the Government to make a statement as to their views until the Conference had had the opportunity of putting their views before the Government: in fact, I considered that the Government would be influenced naturally by the views expressed by the Conference. But then some Delegates

kept saying to me—and I think you were among them—“ Oh, but I want to know the general outline of the Government's views, so that we may proceed, with some knowledge of it and we may not begin building the house without knowing the top or the bottom.”

Tharrawaddy U Pu: That was for the purpose of proceeding with the Conference only, not for the acceptance or otherwise.

Chairman: Very good. Then I did make a statement in which I laid down what I considered might be the views which would be acceptable for the Government.

Tharrawaddy U Pu: Your Lordship thought that.

Chairman: I think that was criticised by some Delegates as being obscure. Then I made another statement which was so crystal clear that I thought it was impossible for any of the Delegates to have misunderstood it, and I think they did understand it. But that was accepted as the Government view, and we rather imagined we were proceeding within that scope and within that framework. Now, rather to my surprise, Tharrawaddy U Pu says: “ Oh no, not at all; I accept no safeguards at all. Although they are in the interests of Burma, I will not accept anything.”

Tharrawaddy U Pu: Your Lordship will remember that the statement you made was never discussed by this Conference at all. There was no opportunity at all. If that had been discussed no doubt you would have known my present view then and there.

Lord Lothian: But I understand, Tharrawaddy U Pu, that you do not exclude safeguards altogether?

Tharrawaddy U Pu: Well, I mean that remains to be considered, My Lord. I do not say now whether I do not want safeguards or not. I cannot commit myself on this matter.

Lord Lothian: You do not exclude them.

Tharrawaddy U Pu: I have agreed to wait and see the evolution of a new Constitution. It may be with safeguards. If those safeguards are agreeable to us then we might accept them. But now my experience shows it is awful and if we accept these safeguards we shall be nowhere.

Mr. Wardlaw-Milne: On the contrary, I feel very differently from Tharrawaddy U Pu. I feel that if we go on as we are we shall be simply wasting time. I have remained at this Conference at considerable personal inconvenience because I hoped we should evolve a workable scheme. I want again to make it perfectly clear so that there shall be no doubt in the mind of anybody: I do not question the right of any member of the Conference to raise the question of anti-separation again. That is another matter. But within the compass within which we were to work which was laid down in the beginning, I certainly hoped we were working to certain general conclusions which were possible among men and women who were practical people working a practical scheme. But if the whole thing is to be upset by a statement: “ In Burma we are perfectly capable of taking over control to-morrow without any safeguards at all, without any knowledge, without any training, we are such superior people that we can do

something which nobody else in the world can do"—then, frankly, My Lord, we are wasting time, utterly wasting time. I reserve my position, exactly as I have stated, that if that is the attitude the Conference takes up, then the Conference is a waste of time, and I go back to what I said before, that I have to consider the position without the assistance, I regret to say, of certain Burma representatives to whom one would naturally look with great hope and respect to get the greatest possible assistance in problems of this sort. If, with the reservations I have stated, with the fact that they are perfectly free to state afterwards that they are opposed to separation altogether, they still cannot meet together to discuss the working of a scheme without putting in: "We are perfectly capable of working without any safeguards at all; we do not want to work out any Constitution; it is not a question of working out any scheme; we want to take over and manage matters which we have never managed before"—then the whole thing is a waste of time.

Tharrawaddy U Pu: I think before you take any further step you might be pleased to try and understand my position. I have stated very clearly that I want to wait and see the Constitution which will be evolved as a result of this Conference. Now you are trying to set up a Constitution with certain safeguards. There is no doubt about it; I know that during the transitional period there would, in the new Constitution, be certain safeguards. I would like to wait and see until such time as I could judge the safeguards you are going to introduce into the new Constitution for Burma. Until then, my claim remains—full responsible government. I do not want to say anything about safeguards. From this you can quite understand at what I am driving, but at present I cannot say that I will accept safeguards at any time. You cannot force me to get out from my mouth that I would agree that there must be certain reservations and safeguards in the new Constitution, for I have told you very clearly that I will wait and see what sort of safeguards you are going to incorporate in the new Constitution. That is my whole position. I do not say that there should be such and such reservations there. I cannot commit myself at the present moment of time to this statement with which you try to bind me. That is my whole position. I do not say that there should be such and such reservations there. I cannot commit myself at the present moment of time to this statement with which you try to bind me. That is my humble position.

Sir O. de Glanville: My Lord, Tharrawaddy U Pu has just said that he is prepared under certain conditions to consider safeguards. Then might I suggest that we leave this present point that we are discussing and consider these safeguards. It may be that when we get to the end of the next three or four pages he may change his opinion and come round to agreeing to the first part.

Chairman: I am much obliged to you for your suggestion, Sir Oscar, but I do not think that we can exactly discuss whether he agrees to safeguards, because he will merely say the same thing—that he cannot agree to anything until he knows what they are and what the Prime Minister's statement is, and this Report, again, is only a report of what took place, as you know.

Sir O. de Glanville: I know, My Lord.

Chairman: And I do not think we shall get very much further, because I think Tharrawaddy U Pu is determined to agree to nothing, and therefore I think it is really a waste of time doing anything very much further. He has taken up a position which is wholly unreasonable. I cannot help it if he wishes to do so. I think it will have a deplorable effect but I cannot help it if he is determined.

Sir O. de Glanville: That is what I feel, My Lord. Perhaps if we could adjourn now, we might be able to have a talk with Tharrawaddy U Pu and see if we can arrive at some settlement in the luncheon interval.

Chairman: Yes, I think we might agree to that.

(The Committee adjourned at 1-10 p.m. and resumed at 2-30 p.m.)

Chairman: I will again call paragraph 80.

U Ni: When we adjourned I was about to make a suggestion. I should like to ask whether it would be acceptable if we inserted after the words "It was agreed" these words "except by those who would not like to commit themselves until they see the new Constitution."

Chairman: I do not know whether the Delegates on my left still press their objection. Do they?

Tharrawaddy U Pu: If you are asking me, My Lord, I have to say that I stick to my ground. I have consulted U Chit Hlaing, U Tun Aung Gyaw and U Su and we are all unanimous that we cannot move from the position in any way. We stick to it.

U Ni: I do not know whether my suggestion could be accepted.

Chairman: I very much regret having to put in words of this kind because I know how much they will weaken the force of the Report and destroy what I hoped was to be unanimity on perhaps the most important point in the whole Conference. If you still urge me to do it I shall not refuse but I have pointed out the grave dangers there are in the way and the effect which a reservation of that kind may have on public opinion. I can say no more than that. I had some words ready, something like those proposed by U Ni. The words I have are these "except by certain Delegates who are unwilling to express a final opinion until they hear the statement on behalf of His Majesty's Government." I think that expresses it.

Tharrawaddy U Pu: At present I cannot be committed to this statement at all. I cannot be a party to the statement in paragraph 80.

Chairman: That is exactly what the words say, that it was agreed except by certain Delegates, who were unwilling to agree.

Tharrawaddy U Pu: We expressed it clearly that we cannot accept safeguards at present.

Chairman: "Certain Delegates, who are unwilling to accept any safeguards"—is that right?

Tharrawaddy U Pu: Yes, at this stage.

Chairman: Until they have heard the statement?

Tharrawaddy U Pu: No, My Lord, until they have studied the Constitution evolved as a result of this Conference.

Chairman: "Who are unwilling to accept any safeguards"—but that is really the same thing.

Tharrawaddy U Pu: Not quite the same thing. The Prime Minister cannot give the details of the safeguards such as can be given in the Constitution.

Chairman: You are getting into great difficulties there. You cannot put a detailed Constitution before an electorate. All you can do is to put the general lines of it, and as to whether it should be accepted or not in preference to Burma remaining a Province of India. The real issue is whether you should pronounce an opinion until you have heard the statement made on behalf of His Majesty's Government.

Tharrawaddy U Pu: You are referring to the statement to be made by the Prime Minister at the conclusion of the Conference. He made a similar statement at the conclusion of the Indian Conference. We are given to understand that the Prime Minister will make his statement on Monday or Tuesday. But that statement cannot give details of the safeguards. The Prime Minister might mention certain safeguards, but he could not give details as to their nature and extent. Therefore we shall not be in a position to know how far those safeguards will go. We want the words inserted, "until we have studied the Constitution."

Chairman: Yes, but you will not have a Constitution to study. You cannot put a detailed Constitution as expressed in a Bill of 120 clauses before the electorate. All you can do is to give a general statement as to whether, on the lines of the Prime Minister's statement, the Burmese people would prefer to remain a Province of India or to be separated, with a Constitution such as is evolved at this Conference. You will not be in a better position.

Tharrawaddy U Pu: The Prime Minister's statement which has already been made gives us enough guide as to the extent. For instance, I submit he might say responsible government with certain safeguards should be given to Burma.

Chairman: Well, if they are enumerated, is not that enough?

Lord Lothian: Are you aware yet of the Prime Minister's statement? Can you define it as accurately as that already?

Tharrawaddy U Pu: I cannot, My Lord, but the usual statements are already before us and they are sufficient guides for us to study and come to an opinion. Therefore I have to say: "Until a Bill has been presented and passed by Parliament."

Mr. Wardlaw-Milne: I suggest it would be much simpler if the Conference accepts "at this stage" and leaves it at that. If you go into details of what you mean, believe me you will get yourself into great difficulties.

Tharrawaddy U Pu: I am not making a detailed statement of my own free will.

Chairman: You are unwilling to accept any safeguards at the present stage, is that right?

Tharrawaddy U Pu: "At the present stage"; very well. Thank you, My Lord.

Chairman: I do not want to enter into long argument, but I could point out what great difficulties you will get into if you wait until a Bill is actually before Parliament. The Bill will not be before Parliament until the Burmese people in some form have an opportunity of expressing their wishes.

Lord Lothian: As I understand, Tharrawaddy U Pu is pledging himself to silence until the Bill is passed.

Tharrawaddy U Pu: At present I prefer to remain silent.

U Ni: There is one thing I should like to point out in connection with what my friend has been saying, because here the words used are: "Safeguards necessary in the interests of Burma." That gives a wide scope for anyone to say a certain safeguard is not in the interest of Burma.

Mr. Wurdlaw-Milne: Quite.

Chairman: Very well; then we will not argue it any further; we will leave it as it is. Paragraphs 80, 81, 82.

U Ni: 81, of course, may be read along with that.

Chairman: It governs the whole thing, of course. Paragraphs 82, 83, 84.

U Ba Pe: 84 defines our position.

Chairman: Yes. Now 85.

Mr. Harper: Would it be an improvement to put these points out in full instead of "etc., etc."?

Major Graham Pole: I thought they had been put out too fully already.

Chairman: You see the Report is only to indicate the general lines, Mr. Harper. I think it would be a little bit out of scale if you set out here in full details the whole of it. I mean there they are.

Mr. Haji: My Lord, this morning I compared the "etc., etc." If you accept the suggestion which has just been made, it will only mean another eight or nine more lines, and I think it will save the reader the need of referring to the full text.

Major Graham Pole: Why not make it shorter still?

Mr. Haji: Either make it shorter or give it in full. It is better to have it fully, because there are only eight or nine lines.

Chairman: How can you make it shorter unless you say: "The general safeguards of minorities"?

Mr. Haji: That is why I was suggesting, supporting Mr. Harper's idea, that you might put them in full. It only means a few lines more.

Major Graham Pole: One could stop simply at the word "afforded" without putting in anything.

Chairman: I have no great objection to putting in the extra amount if it is pressed. It is only a few lines, I understand.

U Ni: This refers to the safeguards for the minorities. What about the safeguards for the majority?

Chairman: The safeguards for the majority is that majorities always rule.

U Ni: Not in Burma.

Chairman: I know that Burma is exceptional to all other countries, but I think that there the majority will probably rule. Of course, if the majority breaks itself up into different sections it will be a different matter.

U Ba Pe: Not only that—there is the official bloc, nominated members and minorities, and they might combine.

Chairman: But we are leaving out the official bloc, *U Ba Pe*, are we not?

U Ba Pe: I am saying for the present.

Chairman: What with "this stage" and "for the present" it is rather difficult to follow.

Paragraph 86.

Mr. Harper: My Lord, this paragraph, if I may criticise it, starts at once by referring to the need to define the position and rights of the commercial communities without actually specifying what they are. It was definitely agreed, I think, with hardly any exception, that there should be no discrimination in matters of commerce.

U Ba Pe: For those who are already in the country.

Mr. Harper: Well, I think that was also touched on. *U Ba Pe* was, I think, one of the first to voice his opinion, and his actual words, which I have here, are:

"I am against discrimination of any kind, and I do not want the European merchants discriminated against by law or otherwise."

That view, I think, found almost complete agreement.

U Ba Pe: Do not read only that passage. Read on. I said a good deal more.

Mr. Harper: Would you mind reading it? That is the only passage I have. I think that view found complete acceptance, and I think this paragraph would be made more clear, and certainly more self-contained, if we began by stating that principle in the first sentence, and I would suggest starting with these words:

"It was generally agreed that there should be no discrimination, legislative or administrative, against any community carrying on business or trading in Burma,"

and then the paragraph would go on to say:

"and it was proposed that the Constituent Act should contain provisions,"

and so on. Then in the fourth line I would suggest that for the word "opinions" we should substitute the words "general principles." I think that would more accurately record what was said in the Committee's discussions on the point. Mr. Howison, when referring to this document, R.T.C. 22, approved of the "general lines" of the portion of this paper devoted to commercial discrimination, and accepted the "principle" of paragraph 18 among others. In this Report now it is proposed that we should say that the opinions recorded in this document would form the basis of a suitable provision for insertion in the Burma Constituent Act, and since that is so I think it would be more correct to say that what we accepted in this Report was the general

principles rather than necessarily the exact wording of the opinions expressed.

Major Graham Pole: It makes no difference whether they are opinions or principles if they are forming the basis of a suitable provision.

Mr. Harper: Perhaps I shall be able to satisfy Major Graham Pole later in the Plenary Session. But just to give an example of what I mean, I might refer to paragraph 18, which sets out in rather greater detail the principles laid down in paragraphs 16 and 17. Paragraph 18, for instance, specifies certain grounds on which discrimination should not be allowed, but the list is not exhaustive, and I should not like, by accepting the actual words of that paragraph . . .

Chairman: I do not think there is any objection to saying that the view was expressed that the principles recorded, and so on. I do not think there is any great difference there; but what about the first part? Will you read out your first sentence again, because I think the Committee want to have it in their minds.

Mr. Harper: The first suggestion was that we should start the paragraph by saying:

"It was generally agreed that there should be no discrimination, legislative or administrative, against any community carrying on business or trading in Burma."

Chairman: What are you basing that on? On statements made?

Mr. Harper: On statements made at the Conference.

U Ba Pe: Made by whom?

Mr. Harper: By U Ba Pe.

U Ba Pe: I do not think that is correct. I will read out what I said:

"There are firms in Burma, Indian, European and others, doing business, and I will not go into how they are in that position at present. For my purpose it is sufficient to say that they are there doing business, and as to all these firms I say they must be granted the position they are enjoying now; there should be no discrimination against them."

That is those firms which are in the country already. Then I went on to say:

"But I am not concerned with the present. Those who are in Burma already will be on an equal footing; there will be no discrimination. But what I am thinking of is the future; should we bind down a future Government of Burma by stipulating all sorts of restrictions from now? I am against that and I have good reason for it. The future Government of Burma may be in a position to meet the national requirements, to start various industries in the country or to help the starting of industries in the country. The idea that was abroad in the Indian Round Table Conference was that even the future activities of the future Government of India should be conditioned by certain regulations to be made from now. I am rather against that. I do not want to bind down the future Government of Burma."

Then I referred to the Government of India Despatch and gave the page and paragraph and so on. I said that in the case of those

already in the country we would not discriminate in any way against them, but as to the future the matter should be left to the decision of the future Government of Burma.

Mr. Harper: I think that at the Indian Conference it was generally agreed that it was quite possible to start industries and subsidise industries without discrimination. There is no need to discriminate at any time, either now or in the future, and I understood that was accepted.

Mr. Wardlaw-Milne: It seems to me, My Lord, that we are getting two separate matters mixed up here. The question of discrimination has nothing to do with the desirability or ability of the future Government of Burma to decide whether they as a Government shall start industries or even exclusively start industries. I think nobody has suggested that anything should be done to take away a free hand from the future Government, but that is a different thing. The other question is whether if an industry is free to the traders of a country it shall be free to all those traders. The point which Mr. Harper is making, as I understand it, is that there shall be no discrimination against any person. If it is right and proper for one class of person to start an industry it is right and proper for any person to start in that industry. There should be no discrimination on account of race or anything else. That is a different point, I think, from the one dealt with by U Ba Pe in the speech he has quoted. It may be advisable for the Government to start certain industries which will be excluded from general competitive enterprise in the country. There may be cases in which the Government may desire to develop those industries itself. Holding the views that I do hold I hope it will not, but that is another matter. That I think is a different point from the one which Mr. Harper is making that where an industry is open it should be open to all.

U Ba Pe: My point is that the future Government of Burma should not be fettered by our decisions here. They should be free.

Mr. Wardlaw-Milne: If we are to take it that U Ba Pe's proposal is that the future Government of Burma should be at liberty to say that A will be permitted to start an industry but B will not be permitted to start in that industry though he may be equally a British subject but of a different race or living in a different part of the country, then, I say at once that I dissociate myself from views of that kind. I do not think they exist anywhere else in the Empire.

Chairman: Your proposal is that it is not generally acceptable unless it is confined to present trading interests.

U Ba Pe: That is so.

Mr. Harper: My impression quite definitely is that there was no difference on discrimination with the possible exception of the Delegates in the corner on my right. I think the records quite definitely give that impression.

Chairman: I gather that what U Ba Pe says is that he wants to have no discrimination against existing commercial interests in Burma but he wants the Government to have a free hand to deal with commercial interests that are new. Is that what you mean, U Ba Pe—new commercial interests?

U Ba Pe: New commercial interests. Existing commercial interests would not be discriminated against.

Lord Mersey: In the first sentence of the paragraph I should like to have the word " the " before " commercial communities " omitted, so that it would read " rights of commercial communities."

Chairman: The agreement was that there should be no discrimination about existing interests. Mr. Harper's proposal, on the other hand, was a general proposal.

Mr. Harper: Yes, My Lord.

Chairman: I understood U Ba Pe to say that he and his friends did not agree to it. They agreed only as regards existing commercial interests.

Mr. Harper: I do not think he ever suggested in so many words that he wanted to discriminate against commercial interests in the future.

Chairman: I want to be quite clear whether U Ba Pe objects to the clause in the form stated by Mr. Harper. Perhaps Mr. Harper will read it again.

Mr. Harper: I suggest that the paragraph start with the words:

" It was generally agreed that there should be no discrimination, legislative or administrative, against any community carrying on business or trading in Burma."

The paragraph would then proceed as in the draft Report.

U Ba Pe: That means from now onwards. I cannot agree. I can agree only with regard to existing interests in the country.

Major Graham Pole: It would meet U Ba Pe's point if the words " at present " were added.

Mr. Wardlaw-Milne: But it very clearly would not meet mine.

Mr. Harper: I should like to have the point placed beyond doubt.

Chairman: It seems that we must fall back upon our old formula: " Opinion was divided as to whether," etc. What is there agreement upon? Would it meet you if we stated that opinion was divided on the question?

Major Graham Pole: " The view was expressed."

Mr. Wardlaw-Milne: I suggest this (not that I agree with it or desire it), to meet U Ba Pe's point, for it ought to be expressed if that is the view held, though I regret it. In reality this paragraph might stand as it is, but there ought to be an addition at the end that certain Delegates held the view that the future Government of Burma should not be bound.

U Ba Pe: I do not agree with the words " certain Delegates "; there are twelve here.

Mr. Wardlaw-Milne: But they are " certain," are they not?

U Ba Pe: " A majority of the Delegates," you might say.

Mr. Wardlaw-Milne: " Certain " might be a majority or a minority.

Tharrawaddy U Pu: There is a vast difference.

Mr. Wardlaw-Milne: I bow to your superior knowledge of the English language but I did not know that "certain" indicated a majority or a minority.

Tharrawaddy U Pu: I am not speaking of knowledge of the English language; I am merely pointing out that it is a majority.

Mr. Harper: I have a note that on page 47 of the stenographer's record of the debate on the 21st December, U Ba Pe quoted the substituted paragraph 14 in the Minorities Report of the Indian Round Table Conference and said on that:

"I would go on the lines suggested in this extract by means of a Convention, not by putting it in the form of clauses in the Statute. There I would simply put in under the Declaration of Rights that there should be no discrimination between the various races, and so on, because the future action of the Government can only be determined by that Government, and we not yet being a Government of the future, it is not possible for us to anticipate what will be the actual requirements of the day that have to be incorporated in the Convention; so I would leave the matter to the future Government to incorporate an agreement in a Convention, only laying down this principle of reciprocity in the meantime."

Mr. Howison accepted that principle. That seems to me also to bear out the general impression that all the way through the question of discrimination was not to be laid down in the meantime.

Chairman: Shall we put a sentence or two at the end to say that opinion was divided on the question? "There was general agreement on the question that there should be no discrimination in the case of existing commercial interests, but opinion was divided as to whether it should be laid down in the Act that in the future no such discrimination should take place".

Mr. Harper: Very good, My Lord.

Chairman: I am sorry that there is no agreement, but I think that more or less expresses it.

U Ba Pe: Our opinion, of course, is that the future Government should be left free to deal with the matter.

Chairman: Yes. Now 87.

Mr. Haji: In the same paragraph I want just to suggest the substitution of one word by another. In the last but fourth line it says: "the trade in Burma in the future as hitherto". In place of the word "trade," which has a narrow connotation and sense, I would like to suggest: "to engage in commercial and industrial activities." That is evidently the intention.

U Ni: The last line suggested just now will qualify everything.

Mr. Haji: Yes.

U Ba Pe: "Systematically to exploit Burma"—would that not be better?

Mr. Haji: If you accept the word "trade" I do not see why you should not accept the other.

Chairman: It was only urged "to enter and to—"

U Ba Pe: “—exploit.”

Chairman: I rather dislike those tendentious words. “The right to enter and conduct trade and industry in Burma.”

Mr. Haji: Instead of the word “trade” we had better have: “engaging in industrial and commercial activities.”

Chairman: That is too long. “to enter or engage in trade or industry.” Surely that is enough.

Mr. Haji: Yes.

Chairman: It was only urged. Of course it depends on whether you remain a Province of India, because India will take care you do not keep her out if you remain a Province. I was admiring the way in which Tharrawaddy U Pu was playing into the hands of the Indians; I thought it was very clever

Tharrawaddy U Pu. We are between the devil and the deep sea; we do not know who is our friend.

Chairman: Paragraph 87, “Governor’s Powers.”

Mr. Harper: In line 11, “all the revenues of Burma should be paid into a single account”; I suppose that will be except the railways.

Chairman: Well, there were discussions as to whether there should be a separate Board. I cannot remember for the moment whether the revenues of the railways were to be kept separate even though there was not to be a separate Board. There was no agreement about having a Board to manage the railways.

Mr. Harper: The present draft says: “It was proposed without objections being raised.”

Major Graham Pole: That is at the top of the next page:

“There was a majority in favour of separating the railway from the ordinary budget.”

Chairman: Had we not better leave the words “all the revenues,” then the question of whether railway revenues would come into the revenues would be subject to other considerations, would it not?

U Tun Aung Gyaw: On paragraph 87, line 11, where you say “paid into a single account”; What account?

Chairman: Into the general treasury of Burma.

U Tun Aung Gyaw: There must be some head, whether this is the Government of Burma’s account or the Governor’s account.

Chairman: It is simply that it should be paid into a single account.

U Tun Aung Gyaw: We must have a head here—the Government of Burma’s account?

Chairman: I think it must be plain that it is the account of Burma.

U Tun Aung Gyaw: It should be definitely stated that it is the Government of Burma’s account.

Major Graham Pole: It could not go anywhere else than into the Government’s account.

Chairman: I think it is hardly likely that the Government of Burma would pay the revenue into any account than its own.

U Ba Pe: All the Government of India accounts are paid to the Secretary of State for India.

Chairman: That is in the " old India."

U Ba Pe: I do not know whether that will be the case in India. That is the point my friend is raising.

Chairman: I do not want to say that the revenues should be paid into the Government's account, because as I say, what else could you pay it into?

Tharrawaddy U Pu: U Tun Aung Gyaw knows the importance of having a proper account, because he is an experienced bank manager.

Chairman: I am much obliged for the suggestion, but I think it is quite clear that the revenue will be paid into a Government account.

U Ni: That is, the Governor of Burma's account?

Major Graham Pole: The Government of Burma.

U Ni: The real meaning is the Government of Burma's account.

Chairman: What else could it be?

Lord Lothian: The Indian finances are paid into the Government of India account now, not into the Governor-General's account.

U Tun Aung Gyaw: What about the Governor's sanction, mentioned a little lower in paragraph 87?

Chairman:

" It was suggested that the Governor's prior sanction should be required to measures affecting the public debt, and public revenue, or imposing a charge on the revenue."

I think it was Major Graham Pole who stated that.

U Tun Aung Gyaw: None of the Burman Delegates suggested this.

Chairman: I think it was suggested by Major Graham Pole.

Thurrawaddy U Pu: Why not say it was suggested by a Delegate?

Chairman: " It was suggested." That is sufficient. We have used that term " It was suggested " on many occasions. Then I think we might go now to paragraph 88 dealing with " Railways," and if there is nothing on that we will take paragraph 89 dealing with the " Appointment of a Financial Adviser."

U Ba Pe: I am not quite clear that there was general support for the proposal as stated in this paragraph. I do not know whether you can call it general support, because my contention was—and I believe it was shared by my colleagues—that if the subject of Currency and Coinage was to be a reserved subject there was no necessity for a Financial Adviser. If you have a Financial Adviser, the subject should not be reserved.

Chairman: Shall we say " There was some measure of support " ? You think the words are too wide. Would it meet you if we say " There was accordingly some measure of support " ?

U Ba Pe: Say " There was a proposal."

Tharrawaddy U Pu: It was not a reserved subject for India, nor for Ceylon, I think.

Chairman: Shall we say " There was accordingly support for the proposal " if you do not like the other phrase?

U Ba Pe: Who supported it?

Sir O. de Glanville: Everybody.

U Ba Pe: Not me, not everybody.

Chairman: The paragraph starts by saying:

"In the event of Burma being separated from India, her Government will have to deal with financial questions of which neither officials nor non-officials in Burma have hitherto had opportunity to gain experience."

I think that is incontestable. Then we go on:

"There was, accordingly, general support for a proposal that the Governor and the Ministers (including the Finance Minister) should have the assistance of an expert Financial Adviser, who would have important duties in connection with the annual budget and capital transactions."

I do not think that can be really disputed.

U Ba Pe: We only agreed to a Financial Adviser if Currency and Coinage was a transferred subject. That was stated very clearly.

Chairman: Then "There was support for a proposal" shall we say, and not "general support"?

U Ba Pe: You will have to put in our view and say that one section thought there should be a Financial Adviser only in the event of Currency and Coinage being a transferred subject.

Chairman: Well, shall we say "There was accordingly support for a proposal that the Governor and the Ministers (including the Finance Minister) should have the assistance of an expert Financial Adviser"?

Sir O. de Glanville: You could say "There was accordingly considerable support."

Tharrawaddy U Pu: Not general.

U Ba Pe: What do you mean by "considerable"?

Chairman: Would it not meet you to say "there was accordingly support for a proposal"?

U Ba Si: Why not say simply "There was a proposal"?

Chairman: Shall we say "Accordingly it was proposed"?

Sir O. de Glanville: "And supported."

U Ba Si: There were two proposals.

Chairman: Shall we use the form: "It was proposed"? Can anybody object to that?

U Ba Pe: It will be necessary to put in our view also.

Chairman: We will say: "Many Delegates only accepted this proposal on the assumption that Currency and Coinage were transferred subjects."

U Ba Pe: The latter part of the paragraph, beginning with the words, "As it is proposed" will have to be redrafted in the light of the above. If the suggestion of ours is accepted, the Minister would be in charge, and the Governor would not have the whole field of Finance.

Mr. Wardlaw-Milne: Would not that be covered, as a matter of drafting, by the words you have just put in? Those words would govern any subsequent proviso.

U Ba Pe: It is stated here that the Financial Adviser should be given power to scrutinise all financial proposals. That practically takes away from Ministers whatever powers they would otherwise have.

Mr. Wardlaw-Milne: It is only a question of the Auditor-General surely?

U Ba Pe: No: The Auditor-General is a separate proposal. I have no objection to the Auditor-General.

Sir O. de Glanville: The Auditor-General generally reports after the transaction is completed, whereas the Financial Adviser gives a warning before the transaction.

U Ba Pe: It is an impossible position. Cabinet Ministers would be at the mercy of the Financial Adviser.

Chairman: How would that be? This is only in order that the Governor may be in a position, if necessary, to exercise his reserve powers in certain cases.

U Ba Pe: The Government of the day will have to submit every financial proposal to the Financial Adviser, who will report to the Governor. What is the position of the Government then?

Mr. Wardlaw-Milne: There is a good deal in what *U Ba Pe* says, except that all this is governed by the previous words, "in respect of Burma's financial stability and credit." No doubt the advice of the Financial Adviser would be on all financial transactions, but the Governor's interference, as it were, would come under that heading when there were matters arising which referred to Burma's financial stability and credit. I do think that the words I have quoted govern the situation.

U Ba Pe: There is distrust of the future Ministers all along in this; they might be checked at every stage.

Tharrawaddy U Pu: May I say a word on this?

Chairman: But you object to all these safeguards.

Tharrawaddy U Pu: No, I only say in spite of objections my friend has been allowed to say this. It is subject to that proviso.

Chairman: As you said you were against any safeguards, I presumed you also were against this safeguard.

Tharrawaddy U Pu: Subject to our protest already made, will you not allow me to take part?

Chairman: I cannot prevent you from taking part. I was only saying that I had already accepted and understood your view to be that there should be no safeguards. Therefore you do not add any special force to that by attacking a particular one.

Tharrawaddy U Pu: That is true, but that does not prevent me from taking part in the discussion. If it prevents me from taking part, I would rather go away and come back on the day of the Plenary Session. I would be very glad to do that.

Chairman: I should deplore your absence from our Sessions.

Tharrawaddy U Pu: May I say a few words, My Lord?

Chairman: Very well.

Tharrawaddy U Pu: Thank you, My Lord. Mr. Wardlaw-Milne has stated that, reading this Report as it is, this matter is a matter referring only to those questions relating to the stability or credit of the finance of Burma. Supposing these words were taken and put into the Constituent Act, it would read that the Financial Adviser shall have the power to scrutinise all financial proposals, and he shall have a right to bring to the notice of the Governor, to whom he will be responsible in this regard, any proposals conflicting with sound budgetary methods. Under the cloak of this provision I am very much afraid—and I think I am right in entertaining such fear—that the Financial Adviser, if he could not work well with the Minister for Finance, would go to the Governor and tell him: “So-and-so is the trouble here; if you allow this item in the budget, the stability of Burma’s finance will go; the credit of Burma will go.” In that case what will be the result in Burma? Do you think the Burmese Government will be able to carry on administration peacefully? You see under the cloak of this paragraph, I am afraid lest the Financial Adviser might be playing the fool with the future Government of Burma. If you read it through you will find the Financial Adviser will be appointed by the Governor; the Financial Adviser will be responsible to the Governor himself and could be dismissed only by the Governor.

U Ba Pe: That is not so.

Tharrawaddy U Pu: Whatever your view may be, we must accept the views of these British Delegates; they are all so powerful and we are like children here.

Chairman: I had not noticed that you accepted all our views.

Tharrawaddy U Pu: If this proviso is to remain here, what you give by your right hand would be completely taken away by your left hand, and there will be nothing left to us; It will be a question of acceptance or rejection of your Constitution. Therefore, I beg to ask you to think deeply before you accept this proviso in the Report.

Mr. Wardlaw-Milne: May I say, My Lord, that all that Tharrawaddy U Pu says is perfectly correct if you get a Financial Adviser who is unreasonable, a Governor who is weak, and a Finance Minister who is incompetent; but none of those things will happen unless you get all these three conditions. If you get a hopelessly weak Governor, and, as I say, the other two gentlemen either incompetent or impossible in one way or another, you get all these conditions; but otherwise what happens in practice is not that at all. What happens in practice is, as I think Tharrawaddy U Pu will agree, that your Chancellor or Finance Minister, or whatever you like to call him, will, in fact, be in close touch with your Financial Adviser, and all the Financial Adviser will do will be this: he will be able to advise the Governor on any measure proposed which he thinks is against the interests of Burma as a whole. I suggest that the whole matter could be met by the addition of certain words in the third line from the bottom after the word “proposals.” I would say: “The Financial Adviser should be given power to scrutinise all financial proposals with this responsibility in view.” That refers to the Governor’s responsibility; that is the object of his scrutiny. I think that makes clear what the object of his scrutiny is. But I want to make it perfectly clear: I

agree with Tharrawaddy U Pu that under the circumstances I have stated what he says would arise. But you must concede normal minded people working with a common object, and under those circumstances these dangers do not arise.

U Ba Pe : I should like to make one thing clear. It has been said that the Minister of Finance will be in close touch with the Financial Adviser. Supposing there is a difference of opinion between the two, whose will will prevail?

Mr. Wardlaw-Milne : A case in which the question was of vital importance to Burmese credit would, of course, be referred to the Governor, but I think you will find that, such a difference of opinion in practice will never be known in public, whatever may happen in private. It will all be settled among themselves before it ever gets to the length of the Legislative Assembly.

U Ba Pe : But here you have provided that the appointment of the Financial Adviser should be made by the Governor, and the Financial Adviser should be responsible to the Governor, not to the Finance Minister. Therefore, he will not care what the views of the Finance Minister may be. Can you not allow the Finance Minister to appoint the Financial Adviser?

Mr. Wardlaw-Milne : There would be no object in him then.

U Ba Pe : There would be two positions, one where the Finance Minister sought the advice of the Financial Adviser, and he might take it or not take it; but here there is a question of overriding the Finance Minister by the Financial Adviser, by going to the Governor. The position of the Finance Minister is nowhere.

Sir O. de Glanville : There is nothing of that here.

Chairman : Then you had better put in a sentence to say that some Delegates objected to this proposal on the ground that it might infringe the responsibility of Ministers.

Now paragraph 90.

U Ni : Before we pass on to paragraph 90, may I comment on only a few points. It was proposed that the Financial Adviser should be appointed by the Governor, and I proposed that the power of removal should be kept in the hands of the Finance Minister. I gave reasons for that, because . . .

Chairman : *U Ni*, I think your proposal is quite a new one. It was not put forward in the Conference at all.

U Ni : I put that suggestion forward in the Committee, I am sure. I suggest that those words in brackets, " (to whom he would be responsible in this regard) ", may be cut out.

Chairman : " and to bring to the notice of the Governor (to whom he would be responsible in this regard)."

U Ni : Yes, that may be cut out.

Chairman : You want him to be responsible to whom?

U Ni : He will be appointed by the Governor. That is Earl Winterton's suggestion, and I am accepting it.

Chairman : And responsible to the Governor?

U Ni : I do not know what Your Lordship will say to that, but he will be removable by the Finance Minister.

Tharrawaddy U Pu : That is your view?

U Ni : That is the view I put forward.

Tharrawaddy U Pu : I know.

Chairman : Well, it is rather difficult to have a man responsible to one man and removable by somebody else, is it not?

U Ni : I can find precedent for that in other spheres if Your Lordship wants it, where the appointment of a man is in the hands of someone and the power of removal is in the hands of somebody else.

Chairman : But he is working for the Governor. You say there are cases where a man may be appointed by someone and removed by somebody else, but I do not think there can be a case of a man appointing an official to work under him who would be removable by somebody else.

U Ni : That is my opinion and I hoped it would be accepted.

Chairman : I was trying to persuade you not to press it.

U Ni : I only intervene on a few points, and I really do not want to be unpleasant.

Tharrawaddy U Pu : Nobody wants to be unpleasant to anybody so please don't say you are the only exception. We are simply fighting for the cause of the people of Burma.

U Ni : It is a concrete proposal I put forward. I can refer to the record.

Lord Lothian : May I just say a few words about the general financial position, because it is of great importance to the future of the country? The proposal, as I understand it, is intended to give stability and credit to Burma. If the projects which have been put forward in this Conference for the development of Burma are to mature, they will depend almost entirely on whether the credit of Burma is good in the eyes of the rest of the world. If we look over the world as a whole we shall find that almost the biggest single thing which has broken down Government after Government in recent years has been the financial difficulty of maintaining adequate budgetary arrangements. One country after another in Europe has had to have a Financial Adviser of this kind appointed, either by the League of Nations or by other countries, in order to enable them to get any money at all. If we are going to launch Burma as a separate State, then in the interests of the people of Burma and in order that they shall be able to develop their country properly, you will find that it is absolutely imperative to satisfy not merely Burmese opinion, but financial opinion all over the world, that the finances of Burma are going to be run properly. Otherwise, you will get no money at all. If the impression gets abroad that there is going to be instability or unsound finance you are going to prejudice the development of Burma. It is essential that you should create a good impression in the City of London, in New York and Paris, and in other places where you may have to go for money, and to convince people there that you are really anxious to have sound financial methods in Burma.

Tharrawaddy U Pu : Of course, when Lord Lothian speaks, we all listen with great attention because we take as official anything he says. We have very great confidence in him and whenever he makes

a statement to the Conference, we Burmans like to study it very carefully. But on this point I must say that I do not think I can agree with him. I want to ask whether it will not be possible to create the opinion that Burmese finance would be stable and our credit good whether or not we agree to employ the services of a Financial Adviser. I think some public opinion could be created by the help of the British Parliament which could say " Oh yes, the Burmans agree to employ the services of a Financial Adviser in order to get stability and credit in their finances ". The Secretary of State for the Dominions, if Burma comes under the Secretary of State for the Dominions, could very well say in England " Oh yes, the Burmans are very sensible. They have agreed to our views and have obtained the services of an English or a European Adviser on finance. Therefore, there can be no cause for anxiety as to whether Burmese credit is good. " I am sure some result can be achieved and would be achieved.

Mr. Wardlaw-Milne: What is going to happen if this Financial Adviser has no power to make clear that his advice is not being followed?

Tharrawaddy U Pu: He should be given all the necessary powers; as you suggested just now, he should be given the right to differ from the Minister. We do not say that there should be no Adviser. We would, in agreement with you, appoint a Financial Adviser, but we must trust to the future Finance Minister to act in accordance with what his Finance Adviser states. The Finance Minister is morally bound to act according to the advice given by the expert whom he has already engaged, and the Legislature also would see that he does not go wrong in that respect. If he attempts to act against the advice of the special officer engaged as an expert, the Legislature would not allow that to be done. I ask you to allow the future Government to engage their own Financial Adviser, after consultation with the Secretary of State. At any rate, allow us to do this for a time. If in the event we prove to be a failure, then you may take away all our reforms.

Chairman: I think all these objections which have been stated are met by the suggested amendment to the effect that certain Delegates objected to these powers being conferred upon the Financial Adviser because they might impair the responsibility of Ministers. I think that such a form of words would meet the position. It is a matter of drafting as to where they should be inserted; possibly they would come in best at the end of the paragraph.

The last two paragraphs of the Report, 90 and 91, are not objected to.

We come now to the Conclusions of the Committee. The paragraph at the beginning will have to be altered consequential on the amendment that we admitted on a previous clause as regards reserved subjects. That amendment will have to be referred to in order to carry out in the conclusions what has been already introduced in the previous paragraph.

Tharrawaddy U Pu: Before we discuss the Conclusions, may I point out that we have not discussed one important point, namely, as to whether Burma should come under the Secretary of State for the Dominions. The Committee has not made any suggestion on that point.

Chairman : I think it would not come in this Report, but you might discuss it in the Plenary Session.

U Ba Pe : There are one or two matters. I do not know whether I am in order. There is nothing said about the point I raised in connection with External Affairs.

Chairman : What point was that?

U Ba Pe : I raised the point that either you make it a transferred matter or, at any rate, arrange that trade matters shall be under the control of the Minister of Commerce. It is what you called a mixed subject at the time.

Chairman : Of course all these subjects are transferred subject to certain reservations and controls by the Governor, are they not? If it is not reserved it is managed by a Minister.

U Ba Pe : But this point is not specially mentioned in the transferred field at all. I mean trade relations, appointment of trade agents, and so on.

Chairman : I remember we discussed it, and I think the conclusion was that of course as regards the management of trade the Minister would be responsible. As regards the negotiation of foreign treaties and arrangements the Governor would have to be responsible.

U Ba Pe : That is the political part; I am talking about the commercial part, the Board of Trade part—not the Foreign Office part.

Major Graham Pole : That is transferred.

Chairman : I know we did discuss it, but, of course, as regards the trade side, that would be with the Minister.

U Ba Pe : Yes; that is not mentioned anywhere.

Chairman : Well, I think it is included in all the general powers, is it not?

U Ba Pe : Because in the list read out by Major Graham Pole he mentioned commerce including Banking and Insurance, but not this particular point.

Chairman : It is rather difficult to find it in a moment, but I think it was mentioned.

U Ba Pe : Would it come under paragraph 81, on page 38, External Affairs.

Chairman : " It was further proposed that the Governor should have the power to intervene in the fields of legislation and administration for the purpose of safeguarding the following matters—the protection of minorities; the preservation of Burma from grave internal peril; the financial stability and credit of Burma and fulfilment of her debt obligations; the protection of Imperial interests; the rights and privileges guaranteed to officials; and any matters affecting the reserved subjects enumerated above. " Of course as regards the protection of Imperial interests, the question of trade agreements would come in there. You see these reservations, and so on, are reservations on the control of its own affairs by the Burmese Government. Anything that is not stated as reserved or controlled is necessarily by implication handed over.

U Ba Pe : External Affairs, as it is understood in Burma at present, includes the Board of Trade section in addition to the Foreign Secretary's work.

Major Graham Pole : Where the Governor intervenes is in connection with External Affairs, and a treaty with another country would come under External Affairs, would it not?

Chairman : It is really a mixed question. It is one of those mixed questions which come under this proposal. It would be for the Governor to decide whether a particular issue did or did not fall in either of the categories. It is the difficulty we have here, as you know so well; you deal with trade questions, and in certain cases they impinge on foreign affairs.

U Maung Gye : The subjects which fall under the reserved subject of External Affairs in regard to India are stated in paragraph 11 of the Fourth Report of the Federal Structure Committee.

Chairman : Well, read it out.

U Maung Gye :

"The reserved subject of External Relations would be confined primarily to the subject of political relations with countries, external to India and relations with the frontier tracts.

"Commercial, economic and other relations would fall primarily within the purview of the Legislature and of Ministers responsible thereto. In so far, however, as questions of the latter character might react on political questions, a special responsibility would devolve upon the Governor-General to secure that they are so handled as not to conflict with his responsibility for the control of External Relations."

Chairman : That, I think, is the point, is it not, *U Ba Pe*?

U Ba Pe : Yes.

Chairman : I am much obliged to you for reading that out, but if I recollect aright we did refer to this before, did we not?

U Maung Gye : Yes, Mr. Foot referred to it.

U Ba Pe : But it is not referred to in the Report.

Lord Mersey : Is it not implied by the fact that commerce is obviously a transferred subject, as it is not indicated as a reserved subject, and that that part of it which is concerned with External Affairs is reserved to the Governor?

U Ba Pe : But the difficulty is, do the words " External Affairs " include Commerce?

Lord Mersey : Only that portion of it which has political effects.

U Ba Pe : No : at present the whole thing is included.

Major Graham Pole : But it was distinctly stated that Commerce was transferred. It is not in the Report here, but it is distinctly stated among the transferred subjects.

Chairman : I think there would be no difficulty in putting something at the end of paragraph 82 on the lines of that paragraph, if you wish it. We could give that instance if you chose. I think that would meet it.

Lord Mersey: "Any portion of commercial conventions which might affect political relations."

Chairman: I do not think it is necessary at all myself, but if it is pressed we could easily put that in.

U Ba Pe: Will you put that in under paragraph 82, then?

Chairman: All right.

U Ba Pe: There is another point I missed yesterday—it was entirely my fault—in regard to paragraph 29. I do not know whether it is possible to revert to that. As it stands, it is rather meaningless as far as our point of view is concerned.

Chairman: What is it?

U Ba Pe: It is on page 12.

Chairman: It is rather inconvenient running back like this, is it not?

"In the earlier discussions on the Senate a difference of view had emerged as to the treatment of Money Bills, but the subject had not been explored in detail. It was now proposed by the group mentioned above that Money Bills should originate in the Lower House only, but that the Second Chamber might amend or reject, provided they did not delay a Bill more than 21 days."

U Ba Pe: I will explain, just to clear the thing up. The Bills originating in the Upper House—that is the Senate—and sent down to the Lower House, if rejected, will fall to the ground unless the Lower House takes them up on their own initiative.

If Bills from the Lower House go to the Upper House they can amend or reject them and, if they go back, the Lower House will have the power to put them through. But if they are Money Bills, the Upper House cannot reject or amend them because the power over them is in the Lower House. The Upper House should not detain them more than 21 days before returning them. It does not seem very clear in this paragraph.

Chairman: What do you suggest to make it more clear?

Lord Mersey: Would this meet U Ba Pe? Suppose we say "The Second Chamber may only delay such a Bill for not more than 21 days for purposes of amendment or rejection."

Major Graham Pole: But they cannot reject it. I think that is the point.

Chairman: They would have the right to throw it out on second reading. They would have the right to amend or reject provided they did not detain the Bill for period longer than 21 days.

U Ba Pe: They cannot reject Money Bills.

Major Graham Pole: They can refuse to pass them.

U Ba Pe: If they kept a Money Bill more than 21 days it would be taken as passed.

Chairman: What you mean is that the Second Chamber must deal with the Bill before the expiration of 21 days. Is that the point?

U Ba Pe: It should be returned within 21 days.

Chairman: The Second Chamber would have the power of amendment or rejection but must return the Bill within a period of 21 days. Is that it?

U Ba Pe: Not rejection. They cannot reject.

Chairman: They would have the power of throwing it out on second reading.

U Ba Pe: On a Money Bill there would be no second reading.

Chairman: You cannot prevent a House having a second reading if they have the Bill at all. If you send a Bill to a House you must not say "You cannot have a second reading." If you did they would say something very unpleasant. The point is that you want the Bill returned within 21 days.

As *U Ba Pe* desires that there should be a reference to the Irish precedent, we will have the words: "That the Second Chamber must not retain the Bill for than 21 days, as provided in Section 38 (a) of the Irish Free State Constitution."

U Tun Aung Gyaw: We have omitted the discussion of a State language.

Chairman: That is entirely for Parliament. I do not think we are here concerned with language.

Has any Delegate any observation on the Conclusions? I have suggested that there would be a consequential amendment to the first paragraph with regard to assenting to safeguards.

Tharrawaddy U Pu: Do you intend to recast the whole thing in the light of the amendments made?

Chairman: No, I do not mean to recast, but I was going to put in a consequential amendment which follows upon what we have decided with regard to paragraph 80.

U Ni: In the prefatory paragraph of the Conclusions the phrase is used "in existing circumstances" ("subject to the qualification that in existing circumstances certain specified subjects must be reserved to the Governor"). What we have in mind is the transitional period, and we would prefer those words to the words "in existing circumstances."

Chairman: I think "the existing circumstances" is the best phrase, because we have used it before and I think it is a pity to change the phrases.

U Ni: What we had in mind was during the transitional period.

Chairman: I know you had that in mind, but I was going to say that, as this has become almost a term of art in this Report, I think it is better to use the same phrase. Otherwise, people scrutinising it will be saying that is used in some different sense. I do not think there is anything more on that general paragraph, with the exception of those amendments that I have specified.

Tharrawaddy U Pu: Very well; I will leave it to Your Lordship.

Chairman: Then sub-paragraph (1). I think there is nothing on that. I do not think there is anything on sub-paragraph (2), is there? That is all common form. Then sub-paragraph (3). These are only cases where there is agreement—the conclusions which are generally agreed by the whole Conference.

U Ni: In sub-paragraph (2), Your Lordship has not given the idea of the size of the Lower House.

Chairman: No, because we do not agree about it. These are points that we agreed upon. They are not points on which we disagreed. There was no general agreement about this. If there had been, I should have been delighted to have put it in the Conclusions. But as we did not agree you cannot put it in.

U Ni: I thought there was a good deal of agreement between 150 and 180 or 200, or something like that.

Chairman: Oh, no, there were all sorts of different opinions I am afraid.

U Ni: Very well, My Lord.

Chairman: Now sub-paragraph (3).

U Ba Si: In the last two lines of (3) as it is drafted here it says:

“ But it was admitted that it would be necessary for officials to explain the Governor's policy in the House.”

On that opinion was divided.

Chairman: I thought we were all agreed upon that.

U Ba Si: No; we have the Ministers to explain the Government's policy.

Chairman: No; the Ministers explain their own policy.

Lord Mersey: It is only on the reserved subjects, surely.

Chairman: Yes, that is so; otherwise it is the Ministers.

U Ni: Our proposal was a non-official Minister who would be responsible to the Governor, who would be there to explain things and to keep the Governor and the House in contact.

Lord Mersey: But it says: “ the Governor's policy.” If it were the Cabinet's policy it would be a different thing, but it says the Governor's officials may explain the Governor's policy.

U Ni: I do not know what is exactly meant by the word “ official.” Would you apply the same term to the non-official Minister who is responsible to the Governor, because that was a point put forward by a good many?

Tharrarawaddy U Pu: The difficulty is if a non-official is appointed a Minister in charge of the reserved subjects, what would you call him? Would you call him an official, or a non-official?

Lord Mersey: I would call him an official.

U Ni: It depends on what you mean.

Chairman: You do not agree there ought to be officials to explain the Governor's policy on reserved subjects. Is that so? You say, “ we did not agree ”?

U Ni: Quite so.

Chairman: Then we must cut it out.

Sir O. de Glanville: Why not say “ someone to explain,” which would cover officials or non-officials, leaving the Governor to send whom he pleases?

Lord Mersey: If the Governor has a policy—it is only on that hypothesis—somebody must explain it.

U Ni: Yes, and we suggested that that person should be a non-official Minister who would be responsible to the Governor. That is to say the Governor could send him out.

Chairman: It does not matter whether you call him a non-official Minister or not; I think everybody understands what is meant. It is some representative of the Governor. "—that it would be necessary for the Governor to employ a representative to explain his policy to the House." Is that right?

U Ni: Lord Mersey agreed to the words " non-official Minister."

Lord Mersey: No, I did not.

Sir O. de Glanville: My Lord, " non-official Minister " is not agreed on.

Lord Mersey: No. " —for a representative of the Governor to explain his policy in the House."

Tharrawaddy U Pu: Policy means policy on reserved subjects?

Lord Mersey: Certainly.

Chairman: That is obvious.

Tharrawaddy U Pu: Unless we are careful we might be dragged into the mire.

Chairman: No, you are much too cute to be entrapped into anything. Shall we say: " It was admitted it would be necessary for the Governor to appoint a representative to explain his policy to the House " ? I think that will do. We have actually reached agreement on something; this is really very remarkable. I think that meets you.

U Ni: What is the proposal?

Chairman: I was going to say it would be necessary for the Governor to appoint a representative to explain his policy to the House.

U Ba Si: Our suggestion is that that person should be a non-official Minister.

Chairman: Yes, but that is not agreed; I am only dealing here with conclusions which are agreed; I was using a neutral word.

U Ba Si: Then do away with these two lines.

Chairman: I will cut out the two lines if necessary. If we do not agree we do not agree; but I thought it would be much better if we could at the end of a month show the public and, if you like, the world, whoever listens to our views, that we really have been capable of agreeing on something. Of course, if we can agree on nothing, let us say so—that we are hopeless as a Conference and we cannot agree on anything. This is a case where I used a neutral word which I really thought might cover the thoughts of all sides, but I will cut it out if you like. Do you want it cut out?

Now Number (4).

Number (5.)

U Ni: On Number (5) six lines from the bottom, the word " Chief." Nobody, so far as I remember, suggested that word " Chief."

Lord Mersey: Yes, it has been in twice before.

Major Graham Pole. It is in the Report.

U Ni: In the Committee stage nobody suggested "Chief." "Prime Minister" was the only suggestion.

Chairman: We have used it several times.

Major Graham Pole: Call him what you like when you get your Parliament!

Tharrawaddy U Pu: Thank you. We will call him by any name.

Chairman: Number (6). I think we are all agreed on that, are we not?

Tharrawaddy U Pu: You do not want to mention about adult suffrage?

Chairman: We were not all agreed about it. This is only where we are all agreed.

Tharrawaddy U Pu: We Burmans agreed. That is why I mentioned it to Your Lordship. I do not know of any objection to that.

Chairman: There was a great deal of talk about the practical objection of organising constituencies at once on the basis of adult suffrage. There was a great deal of discussion on that.

Number (7).

Mr. Ohn Ghine: In Number (7), about Excluded Areas, it should be brought into line with the discussions. We had some discussion about Excluded Areas this morning.

Chairman:

"It was agreed that the Shan States should take no direct part in the government of Burma and should not be represented in the Legislature. It was also agreed that the other areas excluded from the purview of the Legislature should be administered by the Governor."

It was not agreed, apparently.

U Ba Pe: The first part, also, is incorrect,

"... that the Shan States should take no direct part in the government of Burma and should not be represented in the Legislature."

The Shan States asked that they should be represented. I understand that they want to keep it open.

Chairman: I think that was said. Shall we say "should not be at present represented"?

U Ba Pe: I do not know what is their intention.

Sawbwa of Yawngphwe: We would rather like to send representatives to the Upper House.

Chairman: Then should we make Number (7) read: "It was agreed that the Shan States should take no direct part in the government of Burma," and leave out the words "and should not be represented in the Legislature"?

Sawbwa of Yawngphwe: Yes.

Chairman: We shall gradually leave out all the conclusions one after another.

Sawbwa of Yawngphwe: We do not want to send any representative to the Lower House.

Chairman: I think it is better to say " It was agreed that the Shan States should take no direct part in the government of Burma " and leave it at that. Then we do not pre-judge the question.

Tharrawaddy U Pu: He wants to go to the Upper House and not to the Lower House.

Chairman: The Sawbwa says he is quite satisfied with this. Cannot we leave it there?

U Ba Si: But we may not agree.

Chairman: These conclusions are things on which we are all agreed and if there is disagreement I cannot put anything in. I have stated several times that these are conclusions on which everybody agrees, and if you say you do not agree, out it must go.

Lord Mersey: These last two pages contain the points upon which the Conference has come to an agreement.

Tharrawaddy U Pu: Yes.

Lord Mersey: But you say we have not come to an agreement upon the question of the Shan States being represented in the Legislature and therefore it does not go in.

Chairman: I think it is clear.

Mr. Ohn Ghine: I take the passage to mean that the Government of Burma will have no voice in regard to the Shan States. If that is so, we do not agree.

Chairman: What it says is that it was agreed that the Shan States shall take no direct part in the government of Burma.

Mr. Ohn Ghine: I take it that Burma may have no say in regard to the Shan States.

Chairman: That is left out. These are agreed conclusions and therefore whenever I see a difference of opinion on a point I leave it out.

Tharrawaddy U Pu: Do I understand this to mean that it will take away our right of discussing in the Legislature certain affairs?

Chairman: There is no right being taken away at all. What we have done is to cut out Number (7). I think we might now go on to Number (8).

Tharrawaddy U Pu: I should like to ask what this means? " There was general agreement as to the field of the Governor's responsibility "—What do you mean by that? Does it mean that the Governor is bound to act on the advice of Ministers on matters transferred to the people of Burma?

Chairman: Do you say there was not general agreement?

Tharrawaddy U Pu. There was general agreement, I take it, that the Governor should act on the advice of Ministers on matters transferred to popular control.

Chairman: Well, it says: " there was general agreement."

Tharrawaddy U Pu: It is not clear, My Lord.

Mr. Wardlaw-Mulne: I think perhaps I can clear this up. I do not know that I can; it is a little difficult; but let us try and get it clear. This, as I understand it, says: " There was general agreement as to the field of the Governor's responsibilities." I do not

think there is any dispute about that—" and that in addition to the ordinary powers of returning, reserving, and disallowing legislative measures"—which must always rest with the Governor or somebody—" the Governor should have all necessary powers to enable him to discharge his special responsibilities." That infers that except those, the rest of it is left under the Constitution with the Ministers. It does not go into that because that follows, I think.

Tharrawaddy U Pu: I am not understood by Mr. Wardlaw-Milne. My point is this. It says here: "there was general agreement as to the field of the Governor's responsibilities." Do you mean to say that the Governor shall act on the advice of his Ministers on matters transferred to popular control?

Mr. Wardlaw-Milne: I certainly understand that.

Tharrawaddy U Pu: I want it from His Lordship.

Chairman: I am listening to Tharrawaddy U Pu.

Mr. Wardlaw-Milne: I read it that way, subject, of course, to his power of reserving and disallowing measures.

Tharrawaddy U Pu: That is why I am asking His Lordship the Chairman whether it means this.

Chairman: Of course it means that.

Tharrawaddy U Pu: Then do you not like to say so in plain words?

Chairman: I was only waiting until you had concluded your illuminating statement.

Tharrawaddy U Pu: My Lord, I am finished.

Chairman: Now (9).

U Tun Aung Gyaw: I want to make it "against existing minorities or commercial interests."

Chairman: Yes.

Mr. Harper: Your impression seems to be the same as mine.

Chairman: I think that is right. Now (10), (11), (12).

Tharrawaddy U Pu: On (12), I do not think, My Lord, there is any objection to my suggestion, as you may call it, that the recruiting or controlling authority of the Services should be the Burma Government.

Sir O. de Glanville: It is not agreed on.

Tharrawaddy U Pu: Is it you alone, Sir Oscar?

Sir O. de Glanville: No, no.

Tharrawaddy U Pu: With your company? If it is not agreed I cannot help it.

Chairman: I am afraid there is disagreement on that point, Tharrawaddy U Pu.

Mr. Harper: If we leave it as it is now with the words "existing minorities," does it imply that we agree there should be discrimination against others?

Chairman: Oh, no; If we have agreed on certain things, it clearly does not exclude a lot of other things.

Mr. Harper: As long as that is well understood.

Chairman: Oh, yes. I have one more piece of business. I have here, a re-draft of paragraphs 63 and 64. I think all I can do now is just to read it out. We do not want to delay matters, and we do not want to go into a discussion of details at the Plenary Conference which will be for general speeches. I propose to read this, and, then, if Members who have any objections or suggestions to make would be good enough to send them in to the Secretary to-morrow, I think we could deal with it and get the Report ready so that it would be circulated and in the hands of Members on Thursday evening or Friday morning.

Tharrawaddy U Pu: I do not quite follow Your Lordship's proposal.

Chairman: Do you not remember that this morning I said I thought it would be necessary, in view of the criticism of the Committee, to present another draft of the Section dealing with the Excluded Areas. It was impossible to redraft it while we were sitting here.

I will just read this out. It may save time:

“ EXCLUDED AREAS.

(Other than the Shan States Federation.)

63. The Statutory Commission recommended that the areas in Burma now known as ‘ Backward Tracts ’ should in future be termed ‘ Excluded Areas.’ (For the purposes of the Government of India Act these areas include the Federated Shan States; but attention has been directed separately by the Committee to their case.)

64. This term ‘ Excluded Areas ’ was intended by the Statutory Commission to mean tracts ‘ which must be excluded from the general constitutional arrangements ’* and for the administration of which special provision must be made; and in pursuance of this intention several members of the Committee urged that the administration of these areas, the inhabitants of which, though akin to the Burmans, are admittedly backward and not yet fitted for a share in representative democratic government, might well be entrusted to the Governor (and thus form a ‘ reserved subject ’). The view was expressed that, in such event, it would be advantageous that the Legislature should have opportunity from time to time to discuss the subject at the discretion of the Governor.

65. Several Delegates on the other hand strongly deprecated the proposal that these areas should be removed from the purview of the Legislature, and argued that it would promote advancement from their backward condition if the responsibility for administering and developing them were placed upon a Minister. Some doubt was expressed whether this ‘ Minister ’ should at the outset be responsible to the Governor or to the Legislature; but the intention was that eventually the Minister in charge should be responsible to the Legislature.”

Tharrawaddy U Pu : Are we discussing this now? I do not mind, personally.

Chairman : I do not know whether anybody, on the face of it, has got any immediate objection to raise. Of course, Delegates might like, as it has only just been circulated, to consider it, but I have read this for the purpose of hearing if there are any criticisms or objections. If there are, I should be very glad if they could come in to-morrow, because I do not want to delay the re-draft of the Report, which I hope we may have ready by Friday. I think it does represent the result of the criticisms that were made this morning.

Tharrawaddy U Pu : In order to finish it to-day will you allow us to ask a few questions?

Chairman : Yes, by all means ask a question.

Tharrawaddy U Pu : In the first paragraph you say:—

“(For the purposes of the Government of India Act these areas include the Federated Shan States; but attention has been directed separately by the Committee to their case.)”

Where?

Chairman : Well, the position of the Shan States was discussed in an early paragraph.

Tharrawaddy U Pu : The request which has been made by the Shan Chiefs to the effect that they wanted to send representatives to the Upper Chamber has not been recorded, I take it.

Chairman : No; but I think you have not got it quite. All that this sentence means is that the Committee has elsewhere discussed the position of the Shan States and that is merely a statement of fact.

Sir O. de Glanville : It has been discussed in paragraphs 1 to 5.

(*The proceedings terminated at 4-40 p.m.*)

REPORT

OF THE

Committee of the Whole Conference

PREFATORY NOTE BY THE CHAIRMAN.

In preparing the Report of the Committee of the Conference, I have deliberately refrained from mentioning by name the individual exponents of particular views, and, so far as possible, from attributing particular opinions to particular groups of Delegates. In doing so I have followed precedents set by the Indian Round Table Conference and international Conferences. The purpose of any Conference being to achieve, by conciliation and accommodation of view, agreement on the subjects under discussion, it is the aim of a *rapporteur*, in the pursuit of agreement, to present the general sense of the opinions expressed; and, strictly my duty as *rapporteur* would perhaps have been fulfilled by the presentation of the record contained in the last section of the Report of the points on which general agreement has been reached in the Committee. But the importance to Burma of the matters under discussion is so great that I have thought it necessary to include in my Report the views which have been expressed in various quarters even when agreement has been lacking.

Any attempt to assess the influence of the exponents of different views in the Report would be clearly improper, and to catalogue the supporters and opponents of every view recorded would not only be to attempt something new in the practice of Conferences, but would in my view be both a cumbrous and unnecessary proceeding. The views of individual Delegates can be ascertained at any time by reference to the *verbatim* records of the Conference.

(Sd.) PEEL.

5th January, 1932.

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REPORT

Introductory.

1. The Conference was resolved, on 7th December 1931, into a Committee of the Whole Conference, and proceeded to consider the Heads of Discussion which were laid before it by the Chairman. These were discussed seriatim by the Committee sitting almost daily till 22nd December, 1931, inclusive; and the following Report records the opinions expressed and the conclusions reached on each.

The Federated Shan States.

2. Before proceeding to consider the structure of the Legislature for a Burma separated from India, the Committee turned their attention to the question of the position to be occupied by the Federated Shan States in relation to the government of a separated Burma. It was evident that the decision of this question would materially affect not only the composition of one or both Houses of the new Legislature, but perhaps also the whole nature of the government to be established.

3. *Plea for maintenance as Separate Entity.*—The Shan States' Delegation, both in discussion in Committee and also in a letter* circulated subsequently, plainly indicated that while they had every sympathy with the aspirations of their Burman friends and neighbours, their first objective was to preserve the separate entity of the Shan States Federation. With this aspiration the Committee generally expressed sympathy. As to their position in the polity of a separated Burma, the Shan Delegates indicated that the wish of the Chiefs, whose unanimous views they represented, was to maintain the position of the Federation in the direct charge of the Governor, subject to certain modifications which they desired in the internal administration.

4. *Matters of common concern.*—It was recognised on all sides that between entities so closely knit as Burma and the Shan States Federation (which is not merely a neighbour, but actually within the territorial limits of Burma) there must be many matters of common interest which it will be necessary to regulate. In the event of Burma being separated from India, Burma will have additional responsibilities to undertake and new liabilities to meet; she will, however, gain new assets. The Federated Shan States, as part of the Burman polity, wish to bear their due share of such liabilities, provided that in return they receive their due share of the additional assets, e.g., customs receipts, which may be expected to accrue as the result of the separation of Burma from India. How this share of liabilities and assets

*Vide Appendix I.

should be determined will be a matter for careful enquiry; and this question should, in the view of the Shan Chiefs, be dealt with by the Governor.

5. On this basis the view was taken by some members of the Committee that there can be no advantage in the Shan States taking a direct part in the government of Burma proper nor in having any representation in the Legislature of Burma. The Shan States' Delegates, however, are of opinion that the possibility should not be excluded of the Federation having representatives in the Upper Chamber for the discussion of matters of common concern. Some Delegates desired it to be recorded that the subject was only briefly alluded to in the proceedings of the Committee.

The Legislature.

(I) *The Second Chamber.*

6. *Desirability of Second Chamber.*—There was unanimous agreement upon the desirability of a Second Chamber, though many Delegates considered that the necessity for the Chamber depended on the grant to Burma of full responsible self-government.

7. *Name of the Chamber.*—The majority view was that the Second Chamber should be called the Senate.

8. *Powers of the Chamber.*—Many Delegates considered that the Chamber should have powers limited similarly to those of the Senate in the Irish Free State, as expressed in Article 35 of the Irish Constitution. The opinion was expressed by other Delegates that the Senate should have equal powers with the Lower House in every respect except the grant and withholding of supply. It was suggested that in the case of a refusal by the Lower House to sanction a grant deemed by the Governor necessary for the carrying on of government, the Governor might be empowered to obtain the necessary sanction from the Senate. This suggestion was not supported.

9. *Size of the Chamber.*—Numerical suggestions ranged from 30 to 60, but stress was laid generally more upon the proportion to be borne to the size of the Lower House than to the actual numbers. The proportions suggested varied from one-fifth to a little less than a half of the size of the Lower House, a number of Delegates being in favour of one-third.

10. *Composition of the Chamber.*—General opinion was in favour of a Chamber composed partly of nominated and partly of elected members, though there was divergence of view whether election should be direct or indirect, that is by the Lower House.

A substantial number of Delegates proposed that 50 per cent. of the members should be directly elected on a territorial basis, 25 per cent. elected by the Lower House from a panel of men of experience and 25 per cent. nominated by the Governor acting with Ministers for the purpose of explaining and supporting Government policy and for the protection of minority interests. Others proposed that 50 per cent. should be elected by the Lower House and 50 per cent. nominated by the Governor. One Delegate suggested that part should be elected by electoral colleges, part by the Lower House, and part nominated by the Governor acting with Ministers, for the protection of minority interests.

11. Method of Election to the Second Chamber.—Considerable discussion took place, first, as to the method of election of the elected element, and secondly, as to the method by which the interests of minorities and special interests should be protected.

12. Direct and Indirect Election.—As regards the method of election there was a clear cut division of opinion between those who favoured the system of indirect election by the Lower House, and those who supported direct election.

Figures* were supplied to the Committee indicating the distribution of voters, in the various constituencies on the basis of 30 directly elected members on the qualification of the vote for the Indian Legislative Assembly and Council of State respectively. Opinion was divided, in the light of these figures, as to whether the method of direct election would be fair and practicable, for example in respect of Rangoon Town.

13. Representation of Minorities and Special Interests.—The necessity for the protection of minorities and special interests in the Chamber was strongly pressed by the interests concerned, but no general agreement was reached as to the most suitable method. One opinion was that on the assumption that minorities would continue to have direct representation in the Lower House by means of separate electorates and that the elected element in the Senate would be elected by the Lower House, the minorities would probably obtain some representation in the Senate. Other speakers, taking the line that there must be some better guarantee of adequate representation of minority interests, advocated nomination of minority representatives by the Governor. One Delegate agreed that such nominations might be made on the advice of Ministers. The suggestion was also advanced that minority seats might be filled by direct election by the communities and interests concerned.

14. Nomination of Officials in the Second Chamber.—It was also proposed that the nominated members should include some officials, whose experience would be very valuable to the Chamber in the early years of the new constitution: but the opinion of the greater number was that officials should not be eligible for selection for the nominated seats.

Some Delegates, while objecting to the appointment of officials as the Governor's nominees, would agree to nomination by the Governor, acting with Ministers, to 25 per cent. of the total seats, of persons to represent the Government's policy and support it.

15. Tenure of Seat.—There was general agreement that the tenure of a seat in the Senate should be for six or seven years, and that about one-third of the members should retire in rotation every two or three years, though some Delegates preferred to apply the system of retirement in rotation only to such members as might be nominated or indirectly elected.

16. Qualifications of Electors.—It was generally agreed that the qualifications of electors should be higher than in the case of the Lower House. Some Delegates suggested the adoption of the qualifications which at present exist for the Indian Legislative Assembly.

One Delegate advocated the present qualification in Burma for electors to the Council of State in India.

17. *Qualifications of Candidates.*—It was unanimously agreed that the qualifications for candidates must be more restrictive than for the Lower House, but no final conclusion was reached as to their precise nature. Some Delegates favoured the present qualifications of candidates for the Indian Legislative Assembly with the addition of past and present Presidents of Municipalities and District Councils; others favoured the qualifications applicable to the Council of State and yet other high property qualifications, or the holding of responsible posts or some specified educational tests. On the other hand it was pointed out that if the qualifications were fixed too high some communities, e.g., the Karens, might be altogether precluded from putting forward candidates.

18. *Life of the Chamber.*—It was generally agreed that continuity is desirable in the life of the Senate and that it should be dissolved by the Governor only in special circumstances, such as the occurrence of a complete deadlock between the two Houses.

19. *Casual Vacancies.*—The question of the method of filling casual vacancies was not generally discussed, but a suggestion was made that they should be filled by whatever method had been employed in the case of the previous holder of the seat.

(II) *The Lower House.*

20. *Name of the Lower House.*—The majority view was that the Lower House should be called the House of Representatives.

21. *Size of the Lower House.*—The lowest figure suggested for the membership of the new House was 103. This is the size of the present Legislative Council, and the figure was put forward on the assumption that the seats now held by the "official bloc" would be thrown open to election. On the other hand, a considerable number of Delegates proposed a House of from 180 to 200 members, justifying this figure on the ground of the necessity of splitting up the present over-large rural constituencies. An increase in constituencies would in their view be even more necessary if adult suffrage at 21 were introduced, which would result in a total of 4,000,000 voters. A ratio of one seat to every 20,000 voters was suggested.

There was definite support for a proposal that, having regard both to expense and efficiency, the House of Representatives should consist of from 103 to 150 members. Those supporting this proposal questioned the advantage of giving Burma a larger proportion of members to the population than is the case with other countries in Europe or in the East.

22. *Life of the Lower House.*—It was unanimously agreed that the maximum life of the Lower House should be five years.

23. *Officials in the House.*—There was unanimous agreement that the "official bloc," in the sense of officials nominated by the Governor having power to vote as well as speak, should be abolished.

The discussion was then directed to the question whether it would be necessary for the House to have the assistance of officials. The majority of the Committee agreed that it would not be desirable for

officials to deal on the floor of the House with matters under the control of Ministers; for Ministers would have access to official advice in the ordinary way.

There was much support for the suggestion that officials should attend to express the views of the Governor on matters relating to reserved subjects. Such officials would have the right to address the House, but would not vote.

24. Nomination and representation of Minorities.—Several Delegates declared their opposition on principle to any representation in the Lower House except by means of direct election. Others considered nomination necessary to secure representation of certain elements not likely to secure adequate representation by other means. The question of nomination was therefore discussed in conjunction with the larger question of the continuance of representation of minority communities and special interests by means of separate electorates.

25. In this connection, it was explained on behalf of the European community that the share of commerce in European hands is as great in Burma as in Bengal, where the Europeans hold 11 per cent. of the seats in the Legislative Council, and that this community might therefore be given 10 per cent. of the seats in the Burma House of Representatives.

On behalf of the Indian community it was pointed out that Indian economic interests in Burma were as large as European, and that the Indian population numbered one million as against 11,000 Europeans. One proposal was that the 23 seats now held by the "official bloc" and nominated members should be divided among the minority interests in the proportion of their present representation, *viz.*, Indians 9, Karens 5, Anglo-Indians 1, Europeans 4, Chinese 1, and that the Indians should be given altogether 18 per cent. of the total seats in the House. An alternative suggestion was that the total seats should be distributed as to 50 per cent. on a population basis, and as to 50 per cent. on the basis of economic interests. One Delegate contended that the minority interests constituted 25 per cent. of the population of Burma and held 50 per cent. of the country's wealth, distributed as to 20 to 25 per cent. in European hands and 25 to 30 per cent. in Indian and Chinese hands.

As regards the Karen community, it was claimed that it would be reasonable to give the community separate electorates in every district in Lower Burma. In a wholly elected House of 180 to 200 members, this would give them an increased proportion of the representation.

A suggestion was made that the Chinese should be given 2 per cent. representation and that the Landowners' Association (owners of not less than 300 acres of agricultural land) should be given 2 per cent. representation in the Lower House and one representative in the Second Chamber. One Delegate argued that the Landlords' Associations (owners of Town property) should be included and the percentage increased. An alternative suggestion was that landowners, together with Labour and other interests, and also districts inside the elective area, but not yet made into constituencies, might be represented by giving the Governor power to nominate up to 5 per cent. of the total

seats to provide for the representation of such interests. This suggestion received support, but the majority of the Committee did not favour separate seats for Landowners or Landlords.

On behalf of Burma-Muslims, in the most comprehensive sense of that term, a plea was put forward for either half the number of seats given to the Karens or for a minimum of 4 to 6 seats out of 200 from among the seats allotted to Indians; but the suggestion that the Indo-Burman should be thus distinguished from the Indian community was contested on behalf of the latter.

26. Criticism of Minority Claims.—These various claims put forward by the minorities were contested on a number of grounds. In the first place, objection was expressed to nomination in any form. Secondly, the idea of separate electorates was opposed on the ground that if the criterion of the existence of a minority adopted by the League of Nations were applied, namely, that a minority must constitute at least 20 per cent. of the total population, then there are no minorities in Burma. But if it were held that minorities in fact exist then they could claim no more than freedom from discrimination or interference in the spheres of industry, property, the professions, legislation and taxation, all of which could be adequately secured to them by a declaration of rights in the Constitution. In more detail, it was argued that European Government servants would be protected by statute, the European commercial community could be protected by the proposed declaration of rights, and Europeans who identified themselves with the country could always get into the Assembly through general non-communal constituencies. Anglo-Indians were mostly members of the Services and would have the protection of statutory safeguards, while the Anglo-Burmans included in the community should identify their interests with those of the majority community. Chinese commercial interests would be covered by the general declaration, while of the remaining Chinese the British Chinese, who alone could be considered, should identify themselves with Burma and depend on Burmese votes for representation. Similarly, the interests of those Indians who were permanently settled in Burma were identified with those of the Burmese, and the temporary residents had no right to claim special representation. As regards landlords, figures showed that on the suggested basis of a holding of 300 acres only absentee landlords, many of whom were only moneylenders, would receive representation. It was urged in the case of the Karens (though this statement was at once disputed), that there appeared to be no unanimity in favour of separate electorates, particularly for Buddhist Karens, and it might be possible to meet Karens generally by creating a sufficient number of mixed Burmese and Karen constituencies so defined as to contain a substantial majority of Karen voters, whereby it would be possible for the Karen voters to return a Karen member.

The view was expressed that it was necessary to avoid the possibility of a situation in the Lower House in which minority representatives could combine with a minority Burmese party to defeat the Burmese majority.

In the course of the discussion the suggestion was thrown out, but for various reasons did not prove acceptable, that representation

of minority communities by separate electorates should be provided for in the Statute for a limited period only, such as ten years.

27. *Absence of Agreement.*—Despite great efforts made by members of the Committee to reach agreement by private and informal conversations, it is regretted that no solution of these conflicting views has been attained.

(III) *Relations between the two Houses.*

28. *Procedure regarding Ordinary Bills.*—The question of the relations of the Houses in legislation had already been touched on in the discussion on the powers of the Senate, when it had been generally agreed that the two Houses should have equal powers in respect of the initiation, amendment or rejection of non-money Bills. Definite proposals were now put forward by a group of Delegates. These were (a) both Houses to be able to initiate Bills; (b) Second Chamber Bill amended by Lower House, henceforth to be treated as initiated in Lower House; (c) Second Chamber Bill rejected by Lower House not to be re-introduced in Second Chamber in the same session; (d) in the event of amendment of a Lower House Bill by the Second Chamber the Lower House could either accept the amendment or demand a joint session; (e) joint session in the event of rejection of a Lower House Bill by the Second Chamber.

29. *Money Bills.*—In the earlier discussion on the Senate a difference of view had emerged as to the treatment of Money Bills, but the subject had not been explored in detail. It was now proposed by the group mentioned above that Money Bills should originate in the Lower House only, but that the Second Chamber must not retain a Bill for more than twenty-one days as provided in Article 38 (a) of the Irish Free State Constitution.

30. *Certification of Money Bills.*—A number of Delegates thought that the responsibility for certifying that a Bill is a Money Bill should rest with the Speaker of the Lower House, while a number of others favoured certification by the Governor. Alternative suggestions put forward by individual Delegates were (a) that the authority might be the Governor acting in consultation with the Chairmen of both Houses, and (b) that the Speaker would ordinarily certify, but that if his decision were challenged the question should go for decision to a Committee of Privileges presided over by a Senior Judge of the High Court or to a Senior Judge of the High Court sitting alone.

31. *Solution of Deadlocks between the two Houses.*—General support was given to the proposal that Bills passed in one House but rejected by the other should be returned to the originating House for reconsideration. In the event of a second rejection there should ensue a period of delay, subject to a dispensing power by the Governor in case of urgency, followed by a joint session of the two Houses. The machinery for this might be incorporated in the Constituent Act.

32. *Joint Sessions.*—It was suggested that the Speaker of the Lower House should act as Chairman of joint sessions of the two Houses, but this was not supported. It was generally felt that joint sessions should not necessarily be called in every case in which a difference of opinion emerges between the two Houses, as it may

sometimes be preferable to drop a measure in dispute. As regards the authority required for the calling of a joint session there was no general agreement. Proposals designed to provide some latitude in the convening of a joint session were made (a) that it should be called on the motion of either House, (b) that it should be called by the Governor at the request of either House, (c) that the Governor if requested by either House to call a joint session should be free to exercise his discretion.

The majority of the Committee considered that the period of delay before the calling of a joint session should be between 12 and 18 months reckoned from the time of failure to agree, and that decisions should be taken there by a bare majority of those present and voting. Other Delegates suggested that a two-thirds majority should be required.

33. Position of Ministers.—As is mentioned in the section on the Ministers, it was generally agreed that Ministers might be selected from both Houses. There was also general assent to the proposition that Ministers should have the right to speak in both Houses, though they should vote only in that to which they belonged.

34. Disqualification from Membership of the Legislature.—As regards disqualification from membership of the Legislature there was agreement that there should be no sex disqualification, that there should be a minimum age limit of 35 for the Second Chamber and that the present conditions regarding insolvents should be modified in such a way as not to subject a bankrupt to harsher treatment than a criminal. One Delegate suggested that conviction by a criminal court should cease to disqualify, and there was a division of opinion as to the possibility of distinguishing between political crimes and crimes involving moral turpitude.

The Franchise for the Lower House.

35. Question as to whether Extension of Franchise is necessary.—Many Delegates proposed the adoption and immediate introduction of adult suffrage for both sexes at the age of 21, and considered that the suffrage should be restricted to "citizens" of Burma. The definition of citizenship and its relation to the franchise is more fully discussed in the following section. These Delegates also pressed that the first election under the new Constitution should be conducted on the basis of the revised suffrage, a point of view opposed by a number of other Delegates, who considered it essential to appoint a Committee of Enquiry before proceeding to extend the franchise. One or two Delegates considered that no extension of the franchise should be considered until the Constitution had been tested over a period of years on the existing suffrage. It is also pointed out that, whatever the merits of adult suffrage, the position of women and unmarried men under the present system was illogical and required examination.

36. The discussion revealed a widely held opinion that a case existed for the extension of the franchise, but there was no general agreement either on this or on the questions of the date when a new franchise should be introduced and the machinery through which any change should be made.

Franchise and Citizenship.

37. *Qualifications for the Franchise.*—The Committee had under consideration the general qualifications to be required as a condition for the exercise of the right to vote and also the question of laying down in the Constituent Act a definition of “citizenship,” the possession of which should, in the opinion of some, be a necessary condition for the right to elect and to be elected to the Legislature. It was indicated in the course of the discussion that, in the view of those who advocated it, the test of “citizenship” might have a wider application than for the franchise only; it might also be used as a test of eligibility for Government appointments. It was, however, in relation particularly to the right to vote or stand for election to the Legislature that the Committee discussed the question. Those who advocated citizenship as a test for the right to vote and enter the Legislature took their stand on the general proposition that no man should be privileged to take part, either as a voter or as a legislator, in the management of the affairs of Burma unless he could show, either by the proved intention to establish a permanent abode or by the fact of long residence, that he had an abiding interest in the country.

38. *Definition of Local Citizenship.*—Certain of the Dominions have, for particular reasons, defined by statute local citizenship as distinct from British national status; and in one case, that of the Irish Free State, citizenship as defined in the Constituent Act is made the sole qualification (except age) for the franchise.

Several of the members of the Committee advocated that this precedent should be followed in the Constitution for Burma; but some difference of opinion was disclosed among them as to the length of residence in Burma to be imposed as a qualification for citizenship, some suggesting twelve years and some seven, five or three years.

39. *Citizenship and Domicile.*—In Article 3 of the Irish Free State Constitution, the provisions of which appeared to commend themselves to the advocates of “citizenship” as a qualification for adoption in the case of Burma, citizenship is defined in terms of domicile. Many members of the Committee strongly deprecated the introduction of domicile as a qualification for the franchise. It was pointed out that domicile is of two kinds, of origin and of choice, and that the latter form presents great difficulty of determination; for this depends not on questions of fact alone, such as residence in a country for a certain ascertainable period, but on intention to establish a permanent residence in that country though such residence may in practice be intermittent. The adoption of domicile it was contended would not only give rise to considerable difficulty in practice and tend to promote litigation but would also disfranchise a considerable portion of the non-indigenous community in Burma. For there are likely always to be many British subjects in Burma, resident for many years in the country in pursuit of business or professional avocations, who might never be in a position to prove the intention of settling there *permanently*. Another ground of objection which was taken to domicile was that the adoption of this qualification is at variance with the general practice throughout the world which makes the right to vote dependent on nationality, not on domicile, combined with a greater or less period of residence.

40. British Nationality plus Residence.—An alternative which received the support of a section of the Committee was that citizenship for Burma might be defined on the basis of British nationality, combined with a prescribed period of residence of not less than 5, and, preferably, not less than 7 years. It was recognised that a citizenship qualification on this basis would exclude from the franchise many members of the non-indigenous business community, and to meet this difficulty the suggestion was made that for such inhabitants of Burma, who constitute a "special interest" as distinct from a community, the right to vote might be secured not by a citizenship qualification but by membership of a Chamber of Commerce or similar recognised organisation.

More than one member of the Committee, however, expressed anxiety lest the institution of the principle of citizenship even on the basis suggested in the preceding paragraph might introduce not merely restrictions of the franchise, but also discrimination in favour of indigenous inhabitants against British subjects from overseas in respect of commercial enterprise, or at any rate against the inception of such enterprise after the establishment of the new Constitution.

41. The inclusion in the Constituent Act of a definition of Burman citizenship might, it was urged, affect the form of the oath of allegiance and jeopardize the right to appeal to common British nationality for the redress of grievances suffered by Burman citizens in other parts of the Empire.

42. Threat to Burma of Unrestricted Immigration.—It was admitted by some of those who advocate Burman citizenship, if only as a temporary measure, that a principal purpose to be achieved is the prevention of Burma's national identity being swamped by the unrestricted influx of inhabitants of the densely populated countries lying to the east and the west of Burma. Anxiety was expressed by these Delegates as to the degree to which Indian labourers and industrialists (whatever useful part they may have played initially in developing Burma's agricultural and other natural resources) now tend to dispossess the indigenous inhabitants of occupation and to depress their standard of living. Reference was made to the Report of the Royal Commission on Indian Labour in respect of the floating Indian population which resides in Burma for no more than a few years at the most and returns to India with its earnings; and it was urged that Burma must be empowered to prevent her own people from being submerged racially and economically by Indian entrants from the one side, and by Chinese from the other. Serious doubt was expressed by other Delegates in the light of Census figures as to the gravity of the menace whether it be regarded from the racial, industrial or economic standpoint; but it was contended that if it was serious it should be dealt with by other means, for example, by non-discriminatory restrictions on immigration. A suggestion was made that for non-indigenous persons a qualification similar to that laid down in the Constitution of Ceylon, *vis.*, a literacy test combined with a property qualification and a period of residence might be prescribed. The view was strongly expressed that it was not in Burma's interest to set up a test which would militate against the principle of equality of treatment for British subjects in all parts of the Empire. Some Delegates however, maintained that this principle of equality is not in practice

applied throughout the Empire, and considered that in present circumstances it should not be applied to Burma.

43. In regard to the test for the franchise, many Delegates held that it would be wise to avoid recourse to any qualification so disputable as that of domicile. A preference was expressed by many for as simple a qualification as possible, to rest firstly on British nationality and secondly on length of residence in Burma; and some Delegates thought that the existing electoral rules provided a suitable basis for the franchise. On the period of residence to be prescribed opinions varied; the advantage of a reciprocity with the United Kingdom, *viz.*, 3 months, was mentioned; but positive suggestions ranged from a period of 6 months to 2 or 3 years. As between these suggestions a preference was expressed by several Delegates for a shorter rather than a longer period, for the longer the period of disqualification the greater the number of aggrieved persons who pay taxes but may not vote.

The High Court.

44. *Constitution of the Court.*—The Committee is glad to be able to record a substantial measure of agreement on the question of a High Court. On certain points, some of considerable importance, there was a divergence of view. Many members of the Committee thought that the proper course was that the Constituent Act should make provision for the establishment of a High Court generally on the lines of the present High Court, to be constituted preferably by Letters Patent and to be composed of a Chief Justice and Judges appointed by Letters Patent. But some Delegates preferred that the constitution of the High Court should be laid down in the Statute.

45. *Qualifications of Judges.*—There was no question in the minds of the Committee as to the vital importance for Burma, that in selections for appointment to the High Court the proper administration for justice should be the sole criterion without regard to race, class or creed, and that the qualifications at present prescribed would appear to be suitable. One Delegate was opposed to the eligibility of members of the I.C.S. for appointment as Judges of the High Court, and another suggested that the number of I.C.S. Judges should not exceed one-third of the strength of the Court; subject to these exceptions the opinion of the Committee was that the Bench should be composed of the best men available with any of the qualifications indicated. A knowledge of the Burmese language among the Judges was mentioned by some Delegates as an important desideratum.

46. *Qualifications of Chief Justice.*—In regard to the qualifications for the appointment of Chief Justice the Committee was more equally divided in opinion. It was said by some Delegates that, rightly or wrongly, there is a feeling, not only among members of the Bar in Burma, but among the people generally, that the Chief Judicial appointment should be filled by a trained lawyer only, and the view was expressed that the best type of appointment is that of a King's Counsel direct from England. For these reasons several of the Committee were of opinion that I.C.S. Judges (some of whom of course have been called to the Bar) should be ineligible for the Chief Justiceship. Others, however, considered that the only criterion should be

merit, and that any person qualified to be a Judge of the High Court, including I.C.S. Judges, should be eligible for appointment as Chief Justice. It was observed that on several occasions in the absence of the Chief Justice an I.C.S. Judge has acted as Chief Justice and given general satisfaction in that capacity; and it was contended that the early administrative training of such Judges is a useful equipment for the discharge of the manifold administrative duties attached to the post of Chief Justice. The opinion of the Committee was, however, divided on this point.

47. Method of appointing Judges and filling Temporary Vacancies.—Opinion was similarly divided as to where the responsibility should lie for recommendations to the Bench. It was agreed, except by one section of Delegates, that appointment should be by the Crown, but, setting apart the case of appointments from the United Kingdom (to which one or two Delegates were opposed), opinion was divided as to whether recommendations to the Crown should be made by the Governor in his unfettered discretion (though no doubt after consultation with those competent to advise), or at his discretion from a list put before him by his Ministers, or strictly in accordance with their advice. The existing practice of appointing *temporary* additional Judges who revert to the Bar was generally disapproved. It was pointed out that if the Court required assistance an additional Judge could be appointed and the original strength of the Court restored on the occurrence of a vacancy. It was agreed by many that acting appointments in short term vacancies should be made from among all persons qualified, including the Judicial Service, by the Governor in consultation with the Chief Justice; but those who advocated appointment by the Governor in the case of permanent incumbents thought that these acting appointments also should be made on the advice of Ministers.

48. Tenure of Appointments.—The general opinion of the Committee was, that the Judges should hold office during good behaviour, but some difference of opinion existed as to how removal, in the rare event of misbehaviour or incapacity, should be effected. Some of the Committee were strongly in favour of removal on presentation of an Address to the Governor by both Houses of the Legislature; others deprecated the Legislature being involved in any way with the Judiciary; the suggestion was made—but met with little support—that in accordance with what is understood to be the rule in the Crown Colonies, no Judge should be removed, except on the report of the Judicial Committee of the Privy Council, the highest appellate body in the Empire.

49. Age of Retirement.—On the question of the age for retirement, it was generally agreed that it should be in the neighbourhood of 60 or 65. To many the climate of Rangoon is sufficiently trying to make 60 a suitable retiring age; but the Committee saw objection to giving an age limit which might prematurely deprive the Court of the services of able Judges; some flexibility between these limits was advocated. In this connection mention should be made of the opinion expressed that appointments to the Bench should be restricted to men of 40 years of age or more.

50. Salaries of Judges.—The salaries of the Judges should, in the unanimous view of the Committee, be excluded from the vote of the Legislature; for present incumbents, the existing rates of salary should

be maintained, but in regard to the appointments made subsequently to the institution of the new Constitution, the opinion was expressed by some Delegates, that Judicial salaries might be fixed by the new Legislature.

The Services.

(I) *Existing Members of the Services.*

51. Maintenance of Rights and Safeguards.—Inasmuch as the Government of India Act and the rules made thereunder by the Secretary of State in Council guarantee certain rights and safeguards to members of the Services, the Committee was unanimously in accord with the recommendations made in this respect in the Report of the Services sub-Committee of the Indian Round Table Conference, and agreed that due provision should be made in the new constitution for the maintenance of those rights and safeguards for all persons who have been appointed before the new constitution comes into force. When the new constitution is drawn up, suitable safeguards for the payment of pensions (including family pensions and provident funds) should no doubt be provided.

52. Retirement on Proportionate Pension.—It was further unanimously agreed that the right of retirement on proportionate pension should be extended, but opinion was divided as to whether the extension should be for a period of five years only or for a longer or an unlimited period.

53. Officers transferred from India.—The Committee recognised that the transfer of existing members of the Services from service under Government in India to service under the new Government of Burma might raise questions in regard to their conditions of service that might not be precisely covered by any of the foregoing provisions. If any such questions arose, the Committee hoped that they would be dealt with in accordance with the general intention of those provisions, namely, that all necessary steps should be taken to reassure existing members of the Services and maintain their existing terms of service, so that they might serve with loyalty and efficiency for their normal term. The Committee were gravely impressed with the importance in the interests of Burma of making full provision to ensure that the new Constitution should not be handicapped in the initial stages by any diminution in the efficiency of the administrative machine or embarrassed by the economic waste and the difficulties which a change of staff on a large scale would entail.

(II) *Public Services Commission.*

54. In accordance with the view taken by the Statutory Commission as to the general need for Public Services Commissions to protect the Services from political influences, it was unanimously agreed that a Public Services Commission should be established in Burma.

55. Size.—With regard to the size of the Commission, the Committee was generally of the opinion that three members, including the Chairman, should suffice. The suggestion was made but did not receive support that the Commission should be so composed as to include representation of minority interests.

56. Method of Appointment.—As to appointment, all members of the Committee agreed that the appointing authority should be the Governor, but opinion was divided as to whether the Governor in making an appointment should (i) act alone or (ii) act on the advice of the Ministers but with discretion to disregard that advice or (iii) be obliged to act on the advice tendered to him by the Ministers. The opinion was expressed that Members of the Public Services Commission should hold office “during pleasure” and be removable by the Governor only. Some, however, pressed the view that action by the Governor should only be on the advice of his Ministers. It was suggested that they should, after ceasing to be members, be ineligible, for a period to be fixed by the Governor, for further office under the Crown in Burma.

57. Functions.—As regards functions, there was general agreement that the Commission should be responsible, under the direction of the Government, for the recruitment of the public services; and that it should be the duty of the Commission to recommend for appointment the best candidates available without distinction of race, class or creed. The Governor, or the Government, as the case might be, should have discretion to consult the Commission before passing orders on disciplinary questions affecting members of the Services.

(III) *Recruitment of the Services (other than the Medical Service).*

58. Maintenance of Efficiency.—It was generally agreed that it was essential that the efficiency of the Services should be maintained and that it was of particular importance that men of the required type should be encouraged to enter the Security Services, *i.e.*, the Indian Civil Service and the Indian Police Service as now termed.

59. European Officers and Method of Recruitment.—It was also generally agreed that in the case of the Security Services at any rate, it would be essential for some time to come that European officers should continue to be recruited for service in Burma. But opinion was divided as to whether, if Europeans of the required type were to be obtained for these Services, it would be necessary that the recruiting authority should continue to be the Secretary of State. Some of the Committee were convinced of this necessity, as the only means of affording such recruits the assurance as to their position necessary to attract the best men; others were equally convinced that the security resulting from the establishment of a Public Service Commission should enable the Government of Burma to obtain European recruits of a suitable type; some others considered that it should be left to the new Government of Burma to decide who the recruiting authority should be; while yet other Delegates wished to follow the majority view in the Report of the Services sub-Committee of the Indian Round Table Conference and to lay it down at the outset that the recruiting authority should be the new Government of Burma.

As regards the Irrigation Branch of the Indian Service of Engineers opinion, while not unanimous, was generally in favour of the transfer of appointment from the Secretary of State to the new Government of Burma, the Public Services Commission making the arrangements for recruitment.

60. Burmanisation.—The question of the rate of “Burmanisation” was briefly discussed by the Committee, and such opinion as was expressed was divided on this question. Some of the Committee were of opinion that the rate should be left for the new Government of Burma to decide, while others took the view that for the present recruitment might continue in the proportions laid down by the Lee Commission.

(IV) *The Medical Services.*

61. The Committee was generally in favour in the interests of economy and efficiency, of a combination of the civil and military sides of the Medical Services. It was felt that the cadres of separate services would be too small to offer adequate prospects to suitable candidates. An adequate number of Europeans should be recruited for the requirements of the Army and of British officials and their families. A sufficient number of the members of the Service should be required by the terms of their engagement to undergo such military training and render such military service as they may be called upon to do. The rights and safeguards of officers of the Indian Medical Service serving in Burma at the date when the new Constitution came into force would be preserved, in accordance with the recommendation of the Committee that the rights and safeguards of existing members of the Services generally should be preserved.

(V) *Loan of Officers from the Governments in India.*

62. The Committee hoped that, on the analogy of what was said in the concluding sub-section of para. 3 of the Report of the Services sub-Committee of the Indian Round Table Conference, dated 13th January, 1931 (Cmd. 3772, page 66), it would be found possible in suitable cases to make arrangements between the Government of Burma and the Governments in India for the loan of officers. The Committee had particularly in mind the scientific services mentioned in para. 5 of the Burma sub-Committee's Report, as well as the convenience of obtaining in this way expert advice in irrigation and railway problems. Burma, on its part, might reciprocate with the loan of officers especially qualified to advise on such matters as forestry development.

Excluded Areas.

(Other than the Shan States Federation.)

63. The Statutory Commission recommended that the areas in Burma now known as “Backward Tracts” should in future be termed “Excluded Areas.” (For the purposes of the Government of India Act these areas include the Federated Shan States; but attention has been directed separately by the Committee to their case.)

64. This term “Excluded Areas” was intended by the Statutory Commission to mean tracts “which must be excluded from the general constitutional arrangements,”* and for the administration of which special provision must be made; and in pursuance of this

intention several members of the Committee urged that the administration of these areas, the inhabitants of which though akin to the Burmans, are admittedly backward, and not yet fitted for a share in representative democratic government, might well be entrusted to the Governor (and thus form a "reserved subject"). The view was expressed that, in such event, it would be advantageous that the Legislature should have opportunity from time to time to discuss the subject at the discretion of the Governor.

65. Several Delegates, on the other hand, strongly deprecated the proposal that these areas should be removed from the purview of the Legislature, and argued that it would promote advancement from their backward condition if the responsibility for administering and developing them were placed upon a Minister. Some doubt was expressed whether this "Minister" should at the outset be responsible to the Governor or to the Legislature; but the intention was that eventually the Minister in charge should be responsible to the Legislature.

Defence.

66. Some Delegates were of opinion that the control of the Army, including British troops, in Burma should at once be handed over to a Burman Minister responsible to the Legislature. But the Committee addressed itself to the consideration of Defence on the understanding that, applying to Burma, the principle underlying the Prime Minister's statement of policy in regard to India, the subject is one that in existing conditions must be reserved for administration by the Governor.

67. *The Requirements of Burma.*—The geographical circumstances of Burma are such that armed aggression by land on a large scale is not a very probable danger, and it was generally agreed that though there is need to guard against raids on the frontier, the armed forces required for frontier defence are not large. The Conference is, of course, not in a position to formulate any opinion as to the strength of the Army required in Burma after separation, either for external or internal defence; but the hope was expressed that it need not exceed the forces hitherto maintained in the country in normal conditions. It is not contemplated that Burma should undertake her own Naval defence; for that she must for the present rely on the British Navy.

68. *Control of Arrangements and Influence of Public Opinion on Defence matters.*—Though it was generally agreed that control of the administrative side of Defence should be entrusted to the Governor for the present, and though some Delegates admitted that a Burman Ministry would not be in a position to undertake this responsibility at once ~~one~~ ^{one} Delegate suggested that reservation of the subject should be limited to five years) a desire was expressed by several Delegates for opportunity for the Legislature to discuss and exert some influence over certain aspects of Army policy, particularly that of "Burmanisation." It was recognised that time must elapse before indigenous forces could be recruited and trained; but several Delegates expressed the opinion that recruits for such forces would

readily be forthcoming, and some were of opinion that conscription could be enacted by a popularly elected Legislature. A suggestion was made that the administration of Defence should be entrusted to a " Minister " who might be responsible to the Governor—to whom the whole control and disposition of the troops would be entrusted—for technical and strategical matters, and responsible to the Legislature for policy in regard to recruitment and Burmanisation and matters less directly affecting operations.

This suggestion met with considerable criticism. The view was widely expressed that division of a subject, all branches of which are so closely connected as in Army administration, is not practicable. It was pointed out that unity of control is essential, and that so long as there are maintained in Burma forces such as British troops for which Parliament is responsible, control must be vested in the Governor who owes responsibility to His Majesty's Government and Parliament.

69. Discussion of Defence matters in Legislature.—On the question of the medium by which the Governor might maintain contact with the Legislature in regard to Defence matters and explain his policy and requirements, there was some divergence of view. Some of the Delegates thought it would be objectionable and inconsistent with the theory of joint responsibility of the Ministry that the medium should be a " Minister "—particularly if he were an official—responsible to the Governor and not to the Legislature. It was suggested that a procedure might be adopted similar to that practised in the Indian Legislature by which, when opportunity is afforded for discussion of Army affairs, the Secretary to the Government in the Army Department or, on occasion, the Commander-in-Chief addresses one or other House; and the suggestion was put forward, which received considerable support, that a Committee of the Legislature might be established to which information on military matters might be imparted, and through which the Legislature might gain familiarity with problems of military administration and acquire the knowledge requisite before transfer of responsibility could be practicable.

70. Expenditure on the Defence of Burma.—The view was expressed that lack of control of Defence by the Legislature was inconsistent with liability for the cost; but it was generally agreed that, wherever control lay in existing conditions, Burma must pay for her military forces, and that the necessary supply should not be subject to the vote of the Legislature. The system of a fixed Budget grant for a term of years was mentioned as possibly a convenient arrangement, though it might be necessary in cases of emergency to exceed such grant.

71. Building up of Indigenous Forces.—As was recognised by the Indian Conference in respect of India, defence questions must be of increasing concern to the people of a self-governing country; and the general feeling of the Committee was in favour, not only of the development of indigenous forces, but also of the provision of means by which the Legislature of Burma might be kept acquainted with Army matters during the period in which, as was generally recognised to be necessary, the responsibility for Defence remains vested in the Governor as answerable to Parliament.

The Ministers.

72. The Council of Ministers, its Appointment and Composition.—The ideal in contemplation being responsible government by a Ministry responsible to the Legislature and, through it, to the electorate, for the administration, in existing circumstances, of most, and eventually, of all branches of government, the Committee held, without any dissentient opinion, that the Ministry should normally be appointed on the usual constitutional method by the Governor in consultation with the leader of the party commanding the largest following in the Lower House, assuming that he was willing to undertake to form a Government. This party leader (who after the formation of the Government would be described as Chief Minister, or perhaps preferably, as Prime Minister) need not be confined in his choice of Ministers to the Lower House, and, in the general view of the Committee, it would be desirable that one of the responsible Ministers at least should be a member of the Upper House. Several Delegates, however, despite the objections to laying down any restriction on the Chief Minister's field of choice and to specifying any particular class in the Legislature as ineligible for ministerial appointment, thought that in present circumstances nominated members of the Upper House (if nomination were prescribed in the Constitution) should not be eligible for selection.

73. The Number of Ministers.—On the question of the number of Ministers under the new Constitution, the Committee was not in a position to make a definite recommendation, but comparing the volume of administrative work likely to devolve on the Ministry with that hitherto borne by two Ministers and two Executive Councillors, it inclined to the view that six to eight would be suitable and that it would be well to prescribe eight as a maximum. This maximum, it was suggested, might be laid down in rules attached to the Constitution Act, as not to be exceeded without the approval of the Governor.

74. Joint Responsibility.—The Committee had no hesitation in adopting the view that the Ministry should be collectively responsible to the Legislature, and though some would have preferred that, as in most constitutions, this principle should be established by practice and convention, a greater number considered that the collective responsibility of the Ministry should be definitely stated in the Constituent Act.

75. Circumstances in which the Ministry should relinquish Office.—The Committee considered the question whether, having regard to the principle of joint responsibility, it is possible to define in what circumstances a defeat should lead to the resignation (or dismissal) of the Ministry. Several thought that when the Ministry of the day was defeated on an important Government Bill, it should resign forthwith; others considered that it should be at liberty to decide ~~whether the~~ ^{whether the} measure lost was in fact of such importance to the Government's programme, and the circumstances of the defeat such as to indicate the forfeiture of the confidence of the House; others again were of opinion that the Government should not be forced to resign save on a direct vote of no-confidence, which in the view of a minority should not be effective save by a prescribed minimum majority of votes. Few of the Committee supported this

last suggestion which, if adopted, would in theory enable a Ministry to cling to office though unable to command a majority in the House to support its measures; the majority of the Delegates took the view that it was unwise to put into a Constituent Act a direction which the circumstances of the case might make it impossible to follow. All, however, agreed that, in accordance with the principle of joint responsibility, an adverse vote must be held to affect the whole Ministry and not an individual Minister only.

76. Position of the Governor.—The Committee was of opinion that while the Chief (or Prime) Minister would ordinarily preside over the Cabinet (or Council of Ministers) the Governor should have full discretion to summon his Ministers and preside at such meetings. They were agreed, also, that the Governor should be fully apprised of the policy of his Ministers and be kept informed of decisions taken at meetings at which he is not present in person. The view was taken that while full information as to the Ministers' actions would be essential to the Governor to enable him to discharge his duties and special responsibilities, it would be of no less advantage to the Ministers that he should preside, at his discretion, at Cabinet meetings. This would also afford opportunity to keep them in touch with subjects reserved for his administration.

77. Administration of Reserved Subjects.—The question was also raised whether the Ministry or Cabinet should contain "Ministers" responsible, not to the Legislature, but solely to the Governor, in respect of subjects reserved for his administration: some Delegates held, and others strongly opposed, the opinion that the Governor should have discretion to appoint officials or non-officials as "Ministers" in charge of subjects administered by him, who should stand or fall with the Ministry as a whole, thus preserving the appearance of joint responsibility, though they would in fact be responsible to the Governor, and not to the Legislature, and should be eligible for reappointment by the Governor to every succeeding Ministry; others took the view that the Governor should not appoint "Ministers," to be included in the Ministry, in charge of subjects administered by himself, but should have discretion to bring to meetings of the Cabinet the officials engaged in the administration of these subjects, so that the Ministers responsible to the Legislature would be able to discuss matters of common concern.

78. Rules for Conduct of Executive Business.—In regard to rules for the conduct of Executive business, the suggestion was made that they should be framed by the Governor in consultation with his Ministers; some Delegates viewed with anxiety any relaxation of the Governor's control of this power, which at present reposes with the Governor-General or the Governor of a Province, as the case may be.

79. Remuneration of Ministers.—As to the salaries of the Ministers, several of the Committee felt that under the new Constitution a scale of salaries considerably lower than those now drawn by Ministers would be adequate (the figures of Rs. 2,000 per mensem for a Minister, and perhaps Rs. 2,500 per mensem for the Chief Minister, have been suggested); and the opinion was held by many that the salaries should be fixed, in the first instance, in rules framed under the Constituent Act, the Legislature to be empowered to amend the rate thereafter, having regard to the financial resources of the

country. There was general agreement that whatever power might be given in the new Constitution to vary the scale of salaries of Ministers, it should not be permissible to make any change affecting adversely any Minister during his tenure of office. The suggestion was made by more than one Delegate that, whereas ministerial salaries might well be reduced below their present level, it would consort with the dignity of the Ministers' position that they should be provided with official residences.

The Governor's Powers.

80. Reserved Subjects and Safeguards.—It was agreed, except by certain Delegates who were unwilling to accept any safeguards at the present stage, that the transfer of power to Ministers responsible to the Legislature must be accompanied by safeguards necessary in the interest of Burma until further experience had been acquired in the management of the machinery of responsible government. In general, the Committee accepted the principles enunciated in the Second Report of the Federal Structure Committee of the Indian Conference in respect of the ordinary and special powers of the Governor-General of India, as suitable to be applied to the case of the Governor of a separated Burma. Paragraphs 16, 21, and 22 were specifically cited as directly applicable in substance.

81. Subjects to be administered by the Governor.—In particular it was proposed that the Governor should himself be responsible for the administration of the following subjects: Defence; External Affairs, Excluded Areas (including the Shan States); Monetary Policy, Currency and Coinage; Ceremonial, Titles and Honours; Ecclesiastical Administration; and Officials recruited by the Crown or the Secretary of State or by the Governor for services administered by himself.

82. The Governor's Power of Intervention for particular purposes.—It was further proposed that the Governor should have the power to intervene in the fields of legislation and administration for the purpose of safeguarding the following matters:—the protection of minorities; the preservation of Burma from grave internal peril; the financial stability and credit of Burma and fulfilment of her debt obligations; the protection of Imperial interests; the rights and privileges guaranteed to officials; and any matters affecting the reserved subjects enumerated above. It would be for the Governor to decide whether any particular issue did or did not fall within either of the categories referred to in paragraphs 81 and 82. In certain cases there would be an overlap of Ministers' and Governor's responsibilities as is pointed out in paragraph 11 of the Fourth Report of the Federal Structure Committee in regard to the reaction on external relations of commercial, economic and other questions which would fall primarily within the purview of Ministers and Legislature; the Governor would in this case have a special responsibility to secure that the latter are so handled as not to conflict with his responsibility for the former.

83. Emergency Powers.—The reservation in existing conditions to the Governor of powers over the field covered above was generally agreed to, and it was also admitted that he must be given adequate

powers to enable him to carry on government in an emergency and to take over the government in whole or in part in the unhappy event of a breakdown of the constitutional machine. All agreed that the safeguarding and emergency powers of the Governor, as opposed to the powers in the reserved field, should be employed as rarely as possible, both in order to demonstrate the reality of the transfer of power to the Ministry and to discourage Ministers from relying upon the Governor's powers to relieve them of the burden of unpopular decisions that might be demanded in the interests of the nation.

84. *An Alternative Suggestion.*—As an alternative to the express reservation of certain subjects, a suggestion was made that all subjects might be placed under the control of responsible Ministers, the Governor being given a power of superintendence which he would exercise to an unlimited extent in the case of subjects classed above as reserved, but only rarely for the purposes mentioned above in the remaining field. By such means it was urged, Ministers would be trained in the handling of reserved subjects, and a gradual further transference of power could take place within the framework of the Constitution. In opposition to this proposal it was pointed out that under it Ministers would in fact be responsible both to the Legislature and to the Governor in respect of certain subjects, thereby producing a blurred responsibility and perpetuating dyarchy in its worst form. The whole object of placing certain subjects directly under the Governor's control was to preserve in a limited field his responsibility to Parliament direct and undivided. There would be no difficulty in instructing the Governor in his administration of the reserved subjects to maintain touch with his Ministers and the Legislature, and through them with public opinion.

85. *Fundamental Safeguards for Minorities.*—In the course of the discussion of the Governor's duty to safeguard the interests of minorities the suggestion was made that additional statutory protection, for which the Governor should be made responsible, should be afforded on the following lines:—

(1) Protection of life and labour, irrespective of birth, race, language or religion.

(2) Free exercise of religions or beliefs, the practice of which is not inconsistent with public order.

(3) All inhabitants to be equal before the law, and to enjoy the same civil and political rights, as, for instance, admission to public employment, functions of ownership, exercise of professions, ownership of land and property, participation in industrial and commercial undertakings, irrespective of race, language or religion.

(4) No person to be under disability for admission into any branch of the public services merely by reason of race, language or religion.

(5) No laws, rules or orders, intended to discriminate against minorities to be passed by Government, Legislatures, Corporations, Municipalities, local self-governing bodies or other official or semi-official bodies.

(6) Racial, religious or linguistic minorities to have the right to establish their cultural and welfare institutions, and to be assured an equitable share in the enjoyment and application of the sums which may be provided from funds under the State, municipal or other budget for educational, religious and charitable purposes.

It was suggested that in upholding these rights, there should be a final right of appeal to the Privy Council. But this suggestion was criticised on the ground that it would inevitably have the effect of bringing the Government or Governor of Burma, in the discharge of their administrative responsibilities, into conflict with the highest Court of Appeal in the Empire.

86. Commercial Discrimination.—It was urged that there should be no discrimination against any community carrying on business or trading in Burma, and it was proposed that the Constituent Act should contain provisions defining clearly the position and rights of commercial communities. The view was expressed that the general principles recorded in the Fourth Report of the Federal Structure Committee of the Indian Conference, document R.T.C. 22, particularly paragraphs 18 and 26, would form the basis of a suitable provision. But it was urged that in addition to security so provided for subjects of the Crown in Burma, British subjects should be secured the right to enter and to engage in trade and industry in Burma in the future as hitherto. The Governor, it was suggested, should be given full statutory powers to ensure that effect was given to such provisions.

It was agreed that the Act should provide that there should be no discrimination, legislative or administrative, against any existing commercial interests carrying on business or trading in Burma. But there was a division of opinion whether this protection should be extended in the Statute to cover future enterprises.

Financial Arrangements.

87. Governor's Powers.—There was general agreement that supply for the reserved subjects and service of debt should be non-voted and should form the first claim on the revenues of Burma, and further, that the Governor should be given whatever powers might be necessary to secure, without dependence on the vote of the Legislature, funds for the discharge of his responsibilities. It was also proposed, without objection being raised, that the existing system of the presentation of an annual financial statement in lieu of a Finance Bill should be continued, and that all the revenues of Burma should be paid into a single account. As is mentioned in the section on Defence, paragraph 70 above, it was thought that ~~in respect of Defence the desirability of a contract grant fixed for a term of years might be left to be settled as a matter of administrative convenience.~~ It was suggested that the Governor's prior sanction should be required to measures affecting the public debt, and public revenue, or imposing a charge on the revenues, and that in accordance with usual practice, proposals involving taxation or appropriation should be made only on the recommendation of the Governor, acting,

of course, on the advice of Ministers in matters falling within the field for which they are responsible.

88. Railways.—As regards Railways, there was some discussion as to the desirability of entrusting the management of the railways, as opposed to policy (which it was agreed should rest with a responsible Minister), to a Railway Board to be set up by Statute. The Committee was not unanimous on this point, but it was agreed that if such a Board were set up it need only be very small. There was a majority in favour of separating the railway from the ordinary budget. One Delegate suggested the establishment of a similar Statutory Board for the management of Posts and Telegraphs, which, like Railways, is a "commercial" department and as such should be run on strictly business lines, free from the political pressure to which a department under the direct control of an elected Minister is liable.

89. Appointment of a Financial Adviser.—In the event of Burma being separated from India, her Government will have to deal with financial questions of which neither officials nor non-officials in Burma have hitherto had opportunity to gain experience. It was, accordingly, proposed that the Governor and the Ministers (including the Finance Minister), should have the assistance of an expert Financial Adviser, who would have important duties in connection with the annual budget and capital transactions. Many Delegates, however, only accepted this proposal on the assumption that the subjects of currency and coinage should be transferred to the control of a Minister. It was emphasized that the financial stability of a country and its credit abroad depend to a great extent on the soundness of its budgetary arrangements. As it is proposed (para. 82) that the Governor should have a special responsibility in respect of Burma's financial stability and credit, it was suggested that to enable him the more effectively to discharge this responsibility, the Financial Adviser should bring to the notice of the Governor (to whom he would be responsible in this regard) any proposals tending to impair stability and credit. Some Delegates objected to this proposal on the ground that it would interfere with the authority of the Finance Minister and his colleagues. The Financial Adviser should have the right to speak in the Legislature, but not to vote.

90. Loans.—Some general discussion took place regarding the manner in which external loans should be raised, but no definite conclusions were formulated. It was pointed out that it might not be possible for a self-governing Burma to raise loans in the name of a Secretary of State. A possible plan might be for the provisions of the Colonial Stocks Act to be applied to Government of Burma loans.

91. Appointment of an Auditor-General.—There was general agreement to the proposal that the Constituent Act should provide for the appointment of an Auditor-General.

Conclusions of the Committee.

The Committee failed to reach agreement upon a number of the Heads for Discussion contained in the Agenda submitted to it by the Chairman. Among such matters must be included the claim of the

Minorities to separate representation in the new Parliament, the question of the franchise, and the method of election to elected seats in the Senate.

There was, nevertheless, agreement, save on the part of those Delegates who are unwilling to agree to any safeguards at the present stage (*vide* para. 80), upon the outlines of a constitution which, applying to the case of Burma the principle underlying the Prime Minister's statement of 1st December, 1931, in regard to India, should place upon the Legislature of Burma responsibility for the government of the country, subject to the qualification that, in existing circumstances, certain specified subjects must be reserved to the Governor, that, in finance, such conditions must apply as would ensure the fulfilment of Burma's due obligations and build up her credit and maintain her financial stability, and finally, that the Governor must be given the necessary powers in all fields to discharge the responsibilities specifically placed upon him. It is possible to embody the agreement reached on this broad question in the following general conclusions:—

(1) The Committee agreed upon the establishment of a Legislature, consisting of two Houses, to be styled the Senate and the House of Representatives, the two bodies to be collectively described as the Parliament of Burma.

(2) It was agreed that the Senate should be about one-third of the size of the House of Representatives, that it should be composed partly of elected and partly of nominated members, that a rotational system should be introduced under which the tenure of a seat in the Senate should be for 6-7 years, and that the Senate should only be dissolved in exceptional circumstances.

(3) It was agreed that the maximum life of the House of Representatives should be five years, and that the "official bloc," in the sense of officials entitled to vote as well as speak, should be abolished.

(4) It was agreed that Bills passed in one House, but rejected by the other, should be returned to the originating House for reconsideration. In the event of a second rejection, there should ensue a period of delay, subject to a dispensing power by the Governor in cases of urgency, followed, if necessary, by a joint session of the two Houses.

(5) It was agreed that Ministers might be selected from either House and should have the right to speak in both Houses. The number of Ministers should, in existing circumstances, be not more than eight, they should be collectively responsible to the Legislature, and there should be a Chief or Prime Minister, who would normally be the leader of the strongest party in the House of Representatives. It was also agreed that, while the Governor might not ordinarily preside over the Council or Cabinet of Ministers, he should be able to do so at his discretion.

(6) It was agreed that there should be no sex disqualification from membership of either House of the Legislature, that there should be a minimum age limit of 35 for membership of

the Senate, and that the present conditions regarding insolvents should be modified in such a way as to prevent a bankrupt from harsher treatment than a criminal.

(7) There was general agreement as to the field of the Governor's responsibilities and that, in addition to the ordinary powers of returning, reserving, and disallowing legislative measures, the Governor should have all necessary powers to enable him to discharge his special responsibilities, including the power to secure requisite funds. It was considered that the Governor should be instructed to keep in touch with the Ministry and the Legislature in the administration of subjects entrusted to him.

existing rights and safeguards (including pensions) for officers minorities or existing commercial interests.

(9) As regards Defence, the desirability of the development of an indigenous defence force was generally recognised, and it was agreed that means should be found to keep the Legislature informed of questions of Army administration.

(10) There was a general measure of agreement upon the structure of the new High Court.

(11) As regards the Services, it was agreed to preserve the existing rights and safeguards (including pensions) for officers appointed before the new Constitution should come into effect, and that the right of retirement on proportionate pension should be extended. The establishment of a Public Services Commission was also agreed upon.

Signed on behalf of the Committee,

PEEL.

5th January, 1932.

APPENDIX I.

LONDON,

9th December, 1931.

To the Chairman and Members of the Burma Round Table Conference

MY LORDS AND GENTLEMEN,

There appears to be a great measure of doubt and confusion as to the exact attitude of the Shan States towards Burma. A simple explanation will do much to clear the air of a misapprehension that has arisen through the misinterpretation of the clause on page 5 of last year's Memorandum.

It should be understood first and foremost that all the delegated Chiefs and their Advisers are completely in agreement, not only between themselves but with their fellow Chiefs that deputed them to come over here and who still remain in agreement with the Memorandum of last year. In this connection it should also be remarked that when the Sawbwa of Hsipaw stated he was not the writer of the Memorandum he did not for a moment mean he was not in agreement with it. He merely wished to infer that it was not his fault if the intention therein was not clearly set out.

They have no desire to say in any sub-Committee anything they would not say in full Committee, and would prefer to speak openly rather than their brother Chiefs should think they had said anything they did not wish the whole of the Representative Chiefs on the Federal Council to know.

The signatories to this letter must make it clear that although they appreciate the attitude of the Burmese Delegates towards their aims—and they have sought their help—they gave no authority to U Chit Hlaing to suggest that they have been induced by any officers to say anything at all. The insinuation of U Chit Hlaing should be categorically denied.

The disputed clause on page 5 of the Memorandum should be explained.

The Chiefs did not for one moment consider that the four points contained therein could be granted by the future Constitution of Burma. Granted those four points, then the Shan States have no objection to a close relationship with Burma, confined, however, to those matters which intimately concern the mutual welfare of the two separate countries—such as matters of defence, communication, customs, etc.

In order to attain the four points upon which so much discussion has arisen, representation in the future Legislature of Burma is not necessary and cannot be helpful; and the Federated Shan States would much rather rely solely upon its relationship with His Majesty's Government through His Excellency the Governor of Burma than to have the double channel to which they have already objected (see para. 7, page 8). Upon this paragraph may we emphasise what we say there: "In the event of separation of Burma from India under a new Constitution, and the claim of the Shan States to be treated independently of Burma being successful"—surely this clearly means that we, at that time as now, desired to remain a separate entity.

If further evidence from our original Memorandum be desired, how can the clause on page 5 be considered to be an overture to be included in the new Legislature of Burma in the face of our reiterated aim to attain to the status of an independent State under the Crown (page 2, clause 5; page 7, clauses 5 and 6)?

In the Supplementary Memorandum of the Committee of Six Chiefs addressed to His Excellency the Governor of Burma (page 10, clause 14) the Chiefs have again stated their desire for a revision of their status. This could not possibly be acceded to by any new Constitution of Burma, however wide its powers may be.

Mr. Foot, in a constructive speech, stated definitely that which we wished to hear—that “there is no demand upon the other (*i.e.*, Burman) side and no anxiety that they should be forced to come into any such Legislature”; and “there is nothing that will prevent the subsequent discussion as to the Shan States having representation in the Upper House to deal with the points that have been mentioned by Lord Lothian.”

As to our representation in the Upper House, that may well be discussed later, when it is decided upon what matters will be dealt with there. If those be, alone, matters of international relationships between the two countries, then representation will be imperative.

Dr. Thein Maung and other Delegates stressed the question of frontier defence. We suggest that this is a matter of detail, of important detail admittedly, but one of those subjects which, in common with others, will inevitably have to be discussed later.

This letter is addressed to the Lord Chairman and Members of the Conference solely with the intention of removing any misunderstanding that may exist as to our position, and to ensure that no misconception may remain that the whole of the Sawbwas, here and in the States, are other than of a united mind and uninfluenced by any consideration beyond their own States' welfare.

We have the honour to be,

My Lords and Gentlemen,

Your obedient servants,

SAW ON KYA, SAWBWA OF HSIPAW.

SAO SHWE THAIKE, SAWBWA OF YAWNGHWE.

SAO HOM HPA, SAWBWA OF NORTH HSENWI.

SAO KAWNG TAI, KYEMMONG OF KENG TUNG.

APPENDIX II.

UPPER CHAMBER.

Geographical distribution of seats on the basis of 30 directly elected members on the electors' qualifications for (a) the Council of State, (b) the Legislative Assembly.

Territorial unit	Area.	(a) Council of State basis.		(b) Legislative Assembly basis.	
		Voters.	Seats.	Voters.	Seats
Rangoon Town ...	76	3,006	4	8,745	5
Arakan Division ...	13,301	1,104	2	1,982	1
Pegu Division ...	13,625	4,693	7	10,018	6
Irrawaddy Division ...	13,417	5,212	8	15,115	9
Tenasserim Division ...	33,102	2,662	4	4,085	3
Magwe Division ...	17,940	979	1	2,016	1
Mandalay Division ...	12,564	1,812	3	5,618	3
Sagaing Division ...	18,886	801	1	3,482	2
			30		30

	(a) Council of State basis.	(b) Legislative Assembly basis.
Number of voters ...	20,269	51,061
Number of seats (assumed) ...	30	30
Average number of voters per seat ...	675	1,702

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